



GAMES, GAMING  
and  
GAMESTERS LAW.

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— F. BRANDT. —



1873.

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Games, Gaming & Gamesters' Law.





# GAMES, GAMING

AND

## GAMESTERS' LAW.

BY

Francis

FREDERICK BRANDT,

OF THE INNER TEMPLE, BARRISTER-AT-LAW.

A New Edition.

*"Alex rumorem nullo modo expavit, lusitque simpliciter, et palàm oblectamenti caus  
vel talis, vel par impar."* SÜETONIUS (De Augusto Imperatore).

*"Indocti, stolidique et depugnare parati  
—— media inter carmina poscunt  
Aut ursum, aut pugiles: his nam plebecula gaudet."*

HOR. (Epist. lib. 2, 1, v. 184).

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1873  
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TO

*THE MOST HONORABLE*

THE MARQUIS OF WESTMINSTER,

A LIBERAL PATRON AND ENCOURAGER

OF

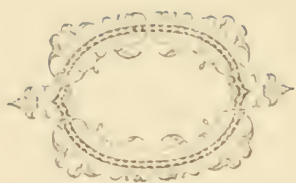
ALL LAWFUL GAMES, SPORTS AND PASTIMES,

*This little Work*

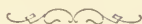
IS,

WITH HIS LORDSHIP'S PERMISSION,

*DEDICATED.*

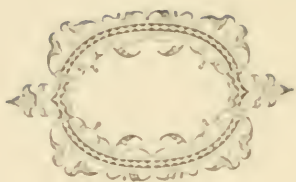


## PREFACE TO THE NEW EDITION.



**I** HAVE been encouraged by the success of the first issue of this Book to publish a Second Edition. The First Edition has been carefully revised and materially added to by the introduction of information which I have since its publication acquired. I have written several additional chapters, treating of Tournaments, Jousts, Sword-playing and pastimes which have become obsolete, or nearly so, by reason of the progress of civilization, which militates against violence and cruelty. My first ten chapters, although interspersed with quaint and curious matter, will not, I believe, furnish as much amusement to the non-legal world as will the last ten chapters; therefore to my kind readers I say, "Use your own discretion;" forewarned, forearmed. Give the New Edition of my little Work a fair field and no favour, and I cannot complain.

F. B.





## P R E F A C E.

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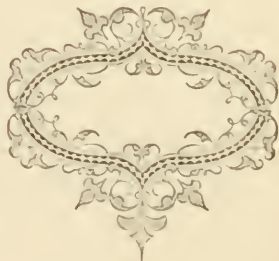
**I**N the unpretending Volume, to which this is the Preface, I have endeavoured to give a concise history of Games and Gaming, commencing with the period when there was nothing illegal in playing at any game how, where or when you liked. I have shown how, when and why certain games became illegal by statutes passed for purposes and with objects which I point out, how in due course illegal games became legal, and I have wound up my little Book with a summary which will enable my readers to see at a glance what games are now legal and what still remain illegal. With the view of relieving the tediousness inseparable from any work which deals with legal subjects, I have at intervals introduced descriptions of the mode in which games, now obsolete and forgotten, were played, together with incidents and anecdotes con-

nected with the general subject of "GAMES AND GAMING."

I have also written a Chapter on the subject of Lotteries, touched upon Betting, and, in short, tried to make my little Treatise, so far as I am able, instructive to lawyers, though not a law book, and interesting to the general reader, though not strictly coming under the category of a contribution to the, so-called, "light literature" of the day.

FREDERICK BRANDT.

INNER TEMPLE.



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CHAPTER I.

Principally Introductory.



# Games, Gaming and Gamesters' Labo.

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## CHAPTER I.

### PRINCIPALLY INTRODUCTORY.

BEFORE the date of the issuing of any royal proclamation, or the passing of any statute prohibiting or regulating the sports and pastimes of our ancestors, all games were perfectly legal at common law, provided they were played fairly and without cheating. This seems to be admitted by all the old writers, and it is amusing to remark the difficulty which they find in assigning causes for the interference of king and parliament with the liberties of the people in this respect. One writer, who published a curious little work in the reign of Queen Anne, says:—"The generality of people are very inclinable to gaming and recreations, especially at some stated times in the year, and some are unwarily drawn in and imposed on by cheaters, and so lose their money *alamaine* (*à la main*), and have been tricked out of good estates, and others have won money fairly and on the square by downright gaming and betting." The same author adds, "It's true cards, dice, cockfightings, races,

“ and such like games, are allowed by our law duly  
“ circumstantiated (whatever that may mean), and yet  
“ they receive but little favour from the law, especially  
“ when they run into excess.”

The notion of classing cockfighting with cards and races seems in our degenerate times singular, to say the least of it; but that amusement, as well as bull, bear and badger baiting, was in vogue, as we shall see, up to a not very remote period.

Our author's reason for the prevalence of gambling is probably sound. He says “ It is not easily to be  
“ accounted for that many persons of good endowments  
“ and of plentiful estates have been so eager, not to say  
“ furious, in their gaming and betting. I cannot attri-  
“ bute it to a principle of mere avarice in many, though in  
“ most I fear it is so, but rather think the contingency  
“ of winning and losing and the expectations therefrom  
“ are diverting. I conceive there would be no pleasure  
“ properly so called if a man were sure to win always.  
“ It's the reconciling uncertainty to our desires that creates  
“ the satisfaction.”

One more quotation from my quaint author, for which I make no excuse, and I will proceed with my main work. He commences a chapter, which is in fact an apology for the acts of kings, queens, and parliaments, thus—“ That  
“ exercise of the body is expedient and in *some cases*  
“ necessary, all agree. The physicians are of opinion that  
“ some recreations are more agreeable to some constitu-  
“ tions than others, and therefore they prescribe ringing  
“ to one, shooting to another, and to some bowling, and to

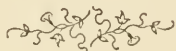
“ others shovel boards, &c., to open and dilate such parts  
 “ of the body as are contracted and straitened by viscous  
 “ and tenacious humours. But besides recreations of the  
 “ body there are other pastimes which seem more apt to  
 “ releivate the mind and fancy when the thoughts have  
 “ been fatiguing upon some knotty and tedious problems,  
 “ and have been poring upon τὰ δυσνόητα—difficulties hard  
 “ to be mastered; *then* to succeed with the *mollia tempora*,  
 “ and to bestow some unbent hours in a sociable recrea-  
 “ tion may be very allowable and useful, such as cards,  
 “ dice, draughts, chess, and the like, and I should esteem  
 “ him a wise and temperate man who is induced to these  
 “ recreations by no other consideration or motive than  
 “ either of health of the body, or the sanity and relief of  
 “ the spirits. Now to say of gaming in general that it is  
 “ utterly unlawful and *malum in se* I dare not affirm,  
 “ though some divines do hold divers of the said recrea-  
 “ tions and pastimes to be utterly unlawful as being  
 “ actions wherein we neither bless God, nor look to  
 “ receive a blessing from Him, nay such as we dare not  
 “ pray to God for a blessing on them, nor ourselves in the  
 “ use thereof.”

Statutory restrictions upon games and gaming may be  
 traced from so early a date as the reign of Richard II.;  
 but I hardly think that the church had anything to do  
 with the prohibition of games and gaming which, in a  
 modified degree, began even earlier in our history, though  
 I find it laid down that gaming may be unlawful by reason  
 of the “ unreasonableness thereof,” as in the case of those  
 “ who spent whole nights and part of Sundays in gaming,

“ though it be after divine service.” “ So to frolique it in  
“ gaming and sports in times of public calamity or danger”  
was held to be in bad taste. I find also that “ lawful games  
“ may be followed unlawfully, intemperately, and un-  
“ seasonably, and so the gamesters are as great offenders,  
“ *in foro cæli* at least, as any others. Such are those as  
“ make a calling of gaming and their main business and  
“ employment, and thereby endeavour to get other men’s  
“ estates, and venture to lose their own to the ruin of  
“ themselves and their families. The nature of commu-  
“ tative justice requires that when I receive that which is  
“ another man’s, I should part with something of my  
“ own that is equivalent, and bears some due proportion  
“ to it.”

The above quaint passages I quote word for word from the little work to which I have already alluded, and, to say the least of them, they *are* quaint.

After some research, I think I may lay it down as an incontrovertible fact that all games were originally lawful if played fairly, but cheating was illegal at common law, as was also excessive gambling, as I shall, in the course of these papers, show, and I shall, I think, be able to point out the real moving cause to the passing of the statutes to which I shall have to refer.





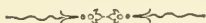
CHAPTER II.

Of Cheating and Excessive Gaming.



## CHAPTER II.

### OF CHEATING AND EXCESSIVE GAMING.



IT is perfectly clear from all the authorities that cheating was always looked upon as illegal at common law, and one can easily see why this should be the case, for even in the most uncivilized ages a certain sense of the difference between right and wrong in the abstract prevailed. In a legal point of view, it seems that the victim of a fraud might either recover the money lost by action at law or the cheater might be convicted and punished as a criminal. In support of these two propositions I have ventured to cite verbatim one or two cases, as much for the quaintness of the phraseology and the subtle points taken and argued, as for the intrinsic value which they possess as legal authorities. They come in here out of chronological order, but I know not where I could introduce them more appropriately. The first case is—

“ *John Harris v. Nicholas Bowden.*

“ Action upon the case, because the defendant at D.  
“ enticed the plaintiff to play at dice, at a sport called

“ five or nine, intending to deceive him and get his money ;  
 “ and he by the defendant’s persuasion did play with him  
 “ at the said sport ; and the defendant in playing at the  
 “ said sport, delivered to the plaintiff *quosdam talos*  
 “ *veraciter titulos* (true dice properly marked or spotted)  
 “ to play with ; and when the dice came to the hands of  
 “ the defendant, he by practice falsely and fraudulently  
 “ *quosdam alios talos falso et subdole titulos* (dice  
 “ marked with false and fraudulent spots) *quos numeros*  
 “ *quinque vel novem aliquo jactu unquam attingere*  
 “ *scivisset adhuc et ibidem projecit*, and then played  
 “ with the said false dice (being able to throw five or nine  
 “ whenever he chose), by which the plaintiff lost to the  
 “ defendant divers sums of money amounting to forty-one  
 “ pounds six shillings and eightpence : and the defendant  
 “ falsely and fraudulently, under the colour of getting,  
 “ took and carried away the said money, to his damages  
 “ two hundred marks. The defendant pleaded not guilty,  
 “ and it was found against him ; and it was alleged in  
 “ arrest of judgment—1. Exception that the word *talos*  
 “ was no word for dice, *sed non allocatur* : for it is a  
 “ proper word for dice. 2. Exception that the word  
 “ *lucisset* was written with a *c*, which is for shining ; but  
 “ the record was viewed, and it was written with an *s*,  
 “ and the plaintiff had judgment.”

This queer case is to be found reported in Croke’s Reports, in the time of Elizabeth, p. 90.

The objection to the spelling of the Latin word intended to mean “ had played ” will appear comic to my unprofessional readers, but many similar and quite as ridiculous

points will be found quoted in the books as having been solemnly argued.

The next case decides that,—“If A. entice B. to play with him at dice, at a play called Passage, upon which B. plays with him, and when it came to B.’s turn to play A. delivered true dice with which he should play, and when it came to the turn of A. himself to play, he throws with false dice (viz.), such dice as he knew would run five or six upon every dice, by which he lost ten pounds. Action on the case lies for this deceit by B. against A. Hill. 8 Car. 1, B. R. Hurt, &c. Rolle’s Abr. 100.”

We now come to a case which points rather to the crime of conspiracy:—

“If two men are common hazardors, and use with false dice to cheat the Queen’s subjects, and they join together and with false dice deceive J. S. of his money at play with them, they may be indicted for this, and if they are found guilty they may be adjudged to stand in the pillory. 2 Rolle’s Abr. 78, Beckingham and Leson’s case. AND THEY DID STAND IN THE PILLORY.”

The quaintness of this sentence is very amusing.

“Indictment was brought against one for being a common player at cards, and defrauding the plaintiff of 40s., not saying *vi et armis*. *Per curiam*: It is needless. 2. To say Anglice a trick of cards without a Latin word, there being none for it, is good enough. 1 Keb. 652. Spencer and Huson.”

In the case of the *King* against *Hauscomb and Primate*, North prayed, on conviction for cheating with false

dice, that the court would set a fine in the absence of the parties, who else would make over their estates before appearance, and so defraud the king. The Court inclined that this may be done on prayer for the king, but not on the prayer of the party. M. 22 Car. 2. B.R.

Cheating then being illegal at common law, excessive gambling—that is, playing for immoderately large sums of money—was also unlawful. This proposition is, I think, quite clear and incontrovertible, not only for the curious reasons assigned in my first chapter, but also because it is obvious that in the framing of what is called our common law (if indeed it ever was framed) a certain sense of what is right influenced the minds of the framers. Still it must strike everyone who thinks for himself that many difficulties were likely to arise in settling what were immoderately large sums. This question no doubt would depend on circumstances. What might be in one case a large amount might in another be a comparatively trifling sum. In order to remedy this defect, an Act was in the reign of Charles II. passed to define the extent to which gambling and betting might legally be practised. To this statute I shall have to refer at some length in its proper place; meanwhile, I will conclude this chapter with an abstract of a case which is to be found in Vernon's Reports (1 Vern. 489; 2 Vern. 70), and which illustrates the view which the courts took at that period in a very amusing way:—

*Sir Bazil Firebrasse v. Brett.*

It seems that Mr. Brett and Sir William Russell dined one day with Sir Bazil Firebrasse. After dinner,

and, as we may easily conceive, after having drunk what in these degenerate days would be considered an inordinate quantity of wine, they "fell in to play." When they commenced Brett and Sir William had not above eight pieces between them, by no means an unusual state of things with gamblers; but by some means or other they won from their host 900*l.*, which was paid to Brett in cash. Sir Basil, who was probably not over sober at the time, brought down a bag of guineas, containing about 1,500*l.* in specie. This Mr. Brett very soon won, and having secured the money, was leaving the house of his entertainer, when the latter, assisted by his servants, seized upon the treasure and took it from him. Sir Basil Firebrasse thinking, and with some show of reason that he had been unfairly dealt with, obtained an information against Mr. Brett for playing with false dice, but in the end the defendant was acquitted, and brought an action of trespass against Sir Basil for taking the bag of money from him by force. The Lord Chancellor granted an injunction to stay these proceedings at law, although all charges of fraud contained in the bill were fully denied. His lordship said that he thought 1,500*l.* (besides 900*l.*) was a very exorbitant sum for a man to lose in one evening, and that if he could he would prevent such occurrences. He cited the case of *Sir Cecil Bishopp v. Sir John Staples*, *tempore* Chief Justice Hale, in which case the learned judge observed that "these great wagers (it was a very heavy wager on a foot race) proceeded from avarice, and were founded in corruption." The Lord Chancellor then added that, if

such discouragement was given to gaming at common law, it ought much more to be done in a court of equity. A distinction or difference which I confess, as a common lawyer, I cannot see.





### CHAPTER III.

How, Why and When certain Games became  
Illegal.



### CHAPTER III.

## HOW, WHY AND WHEN CERTAIN GAMES BECAME ILLEGAL.



So far as I can find or see, there cannot be and never was anything immoral or vicious in the abstract in any of our English games or sports by the statutes to which I shall in the course of this work refer declared to be illegal; unless, indeed, cockfighting, bull, bear and badger baiting, and other cruel and savage amusements can be termed "games or sports." It is curious to note that it has been laid down, that the bishop cannot refuse to induct a clergyman presented to a living merely because he is a player at unlawful games or a haunter of taverns; because, as Sir Simon Degge says, "each of these games is not *malum in se*, but only *malum prohibitum*." Degge's P. C.

Such being the case, and having now shown that they were, up to a certain time, perfectly legal at common law, I now come to the question why and how did some become unlawful?

The why appears to me tolerably clear from the wording of a proclamation made in the ninth year in the reign of King Edward III., which commanded the exercise of archery and artillery, and prohibited the exercise of casting of stones, bars, hand and footballs, cockfighting and other vain sports, "*alios vanos ludos*." The king

no doubt found that his loving subjects preferred peaceful games to the noble sports of war, and so, not out of regard to their morals, but simply with a view to the recruiting of his army, he issued this proclamation. But, to use the words of an old treatise, "This was of none effect until " divers of them (the games) were prohibited, under penalties by Act of Parliament." The archery alluded to was no doubt practised with the long bow, and the artillery of those days with the cross bow, or some modification of that weapon. In the Old Testament, 1 Samuel xx. 40, we find the passage, "And Jonathan gave his artillery " unto his lad." This passage clearly points to some such weapon as the bow, either cross or long. The Acts of Parliament said to have been so effective were 12 Rich. II. c. 8; 11 Henry IV. c. 4; 12 Edward IV. c. 3, and 11 Henry VII. c. 2.

By the provisions of the latter statute, "No apprentice " or servant in husbandry, labourer or servant artificer shall " play at tables from the 10th of January next coming, " but only for meat and drink, nor at tennis, claysh, dice, " cards, bowls or any other unlawful games in no wise out " of Christmas; and in Christmas to play only at the " dwelling-house of the said master, or where the master " of any servant is present, upon pain of imprisonment by " the space of a day in the stocks openly."

This Act was followed by others passed in the reign of King Henry VIII., of blessed memory, one of which, as we shall see, far outstripped the others in its severity. By this monarch many regulations were made, affecting games and gaming, all having for their object the encou-

agement of archery. In the year 1511, it was enacted that "all sorts of men, under the age of 40 years, should "have bows and arrows and use shooting;" and that "unlawful games should not be used"—(hand and foot ball for instance and casting of stones and bars). But these were succeeded by a much more comprehensive Act, some of the provisions of which are in force at the present time. It was passed in the year 1541, and appears in the statute book as 33 Henry VIII. c. 9. It professes to have been passed on a petition from the bowmen and others concerned in the making of implements of archery. They complain that "many and sundry new and crafty games "and plays, as logetting in the fields, slidethrift, otherwise called shove-groat, had caused the decay of "archery;" and so to this grievous state of things a remedy was supplied in the form of this statute, of which some of the sections are so amusingly worded that I make no apology for reproducing portions of them *verbatim*. It is called "An Act for mayntenance of artillery and "debarring of unlawful games." Section 2 provides, "that no manner of person or persons of what degree, "quality, or condition soever he or they be, from the "Feast of the Nativity of St. John Baptist, now next "coming, by himself, factor, deputy, servant, or other "person, shall for his or their gain, lucre, or living, keep, "have, hold, occupy, exercise, or maintain any common "house, alley, or place of dicing, table or carding, or any "other manner of game prohibited by any estatute heretofore made, or any unlawful new game now invented "or made, or any other new unlawful game hereafter to

“ be invented, found, had, or made, upon pain to forfeit  
 “ and pay for every day keeping, having, or maintaining,  
 “ or suffering any such game to be had, kept, executed,  
 “ played, or maintained within any such house, garden,  
 “ alley, or any other place, contrary to the form or effect  
 “ of this statute, 40*s.* ;” and also “ every person using and  
 “ haunting any of the said houses and plays, and there  
 “ playing, to forfeit for every time so doing 6*s.* 8*d.*”  
 Section 14 authorizes magistrates to enter suspected  
 houses, and to repress unlawful games and punish of-  
 fenders. Section 16 contains a very curious provision.  
 It runs thus:—“ That no manner of artificer or craftsman  
 “ of any handicraft or occupation, husbandman, appren-  
 “ tice, labourer, servant at husbandry, journeyman, or ser-  
 “ vant of artificer, mariners, fishermen, watermen, or any  
 “ serving man shall, from the said Feast of the Nativity  
 “ of St. John Baptist, play at the tables, tennis, dice,  
 “ cards, bowls, clash, coyting, logating, or any other  
 “ unlawful game *out of Christmas*, under the pain of 20*s.*  
 “ to be forfeit for every time.”

Under certain restrictions and subject to certain rules,  
 a person might, on giving security, sue for what was  
 called a “ Placard,” having got which he might have  
 gaming in his house. A master, too, might grant a  
 license to his servant to play with him or any other gentle-  
 man in his house or in his presence. A nobleman, or  
 one who had an income of 100*l.* a-year, might license  
 his servants to play amongst themselves at his houses,  
 gardens, and orchards, as provided by sections 13, 22,  
 and 23.

With reference to the placards above alluded to, I may here remark, that in the reign of Philip and Mary they had become very inconvenient. It appears that “by reason of divers and sundry licenses theretofore granted to divers persons as well within the city of London and the suburbs, as elsewhere, for keeping of houses, gardens, and places for bowling, tennis, dicing, white and black, making and marring, and other unlawful games, many unlawful assemblies, conventicles, seditions, and conspiracies, had been daily and secretly practised, and robberies and other misdemeanours had been committed by idle and misruled people resorting there.” To remedy these evils an Act was passed in the year 1555, “to avoid divers licenses for houses where unlawful games be used,” and all placards, licenses, or grants were made void. In the preamble of a statute passed in the second year of King George II., this Act of Henry VIII. is called “a good and profitable statute.” We may, in these days, well doubt how far an Act which throws impediments in the way of the manly games of quoits and tennis can be justly called profitable; but as the object of the king and his advisers was not the moral or religious welfare of his subjects, and as the passing of this measure was prompted by a desire to make the nation more warlike and the people better marksmen, we may feel perfectly sure that had cricket been invented at that period it would have been classed with the prohibited games.

Such being the law with respect to these unlawful games, it is tolerably clear that it was enforced, though I do not find many reports of convictions which took

place under the statutes, until a later period, when the laws relating to gaming were extended and made more stringent. However, the following case is cited by Dalton, and I reproduce it verbatim as a specimen of the short and comprehensive mode of reporting in those days prevalent, and worthy of imitation in our own.

“ At the Lent Assizes, at Stafford, 29 Eliz., before Manwood, Chief Baron, and Windham, justices of assize there, divers were taken by L—, one of the justices of peace there, and were indicted thereof, and he that kept the house where they played also, and he that kept the house was fined at 5*l.*, and every one that played 20*s.*, and because they were present in court they were committed to prison till they paid their fines, and there were above 20 of them that played in the said house at one time.”

Some of the games prohibited by the statute of Henry VIII. having now become obsolete, it may be interesting to my readers to learn what they were and how played. I therefore purpose, in my next chapter, to give them the result of my investigations on the subject, as a partial relief from the tedium of the dry consideration of the laws which made them illegal.





#### CHAPTER IV.

A short Description of the Mode in which Games  
made Illegal by Statute were Played.



## CHAPTER IV.

### A SHORT DESCRIPTION OF THE MODE IN WHICH GAMES MADE ILLEGAL BY STATUTE WERE PLAYED.



OF the games prohibited by the statute of Henry VIII., those played with dice and cards are still familiar to us, and by many excellent people considered in the abstract, and however, wherever and whenever played, wicked as well as illegal. It would of course be quite impossible to give any description of the numerous games which may be played with these ingenious implements. I therefore decline to attempt a task which Hoyle and other writers have undertaken "*tant bien que mal.*"

Quoits and tennis were played in much the same manner in the time of Henry VIII. as they are now. Of bowls properly so called, however, we have only one form, but it is clear that there were many ways of bowling when the statute prohibiting the game was passed. So long ago as the reign of Edward IV. half bowls were illegal; and I confess if the description given of the mode in which this game was played be correct, I wonder it ever became popular, for a more difficult pastime I can scarcely conceive. Half-bowl, called also roly-polly, though certainly not the roly-polly adverted to later on in this work, was

played with one-half of a heavy wooden bowl. Twelve conical pins were placed round a circle about two feet and a-half in diameter, one was in the middle, and two others outside and behind the circle in a line with the middle pin. This middle pin had four balls, and if knocked down counted four; the next to it in the circle, in a line with the two outside pins, had three balls on it, and counted three; the next outside had two balls and counted two; and the rest counted one. So far all is plain sailing enough, but in order to count anything at all the player had to cast his half-bowl over the circle and round the pin farthest off him before any of the pins were knocked down. How on earth he managed to do this I am at a loss to know; and, indeed, Strutt, who mentions the game, says it required considerable practice to make a good player.

Considering the fact that crowds of spectators are in the present day attracted to Lord's as spectators of a cricket match, we need not be surprised to find that in former times some pleasure was derived from watching the performers in games at bowls. The King of Hungary in the old ballad, "The Squyer of low degree," promises that for the amusement of his royal daughter—

“ An hundred knightes truly told

“ Shall playe with bowles in alleys colde.”

Pleasant for the “ knightes,” and one would fancy not very agreeable to the “ ladye” herself, excepting in summer, and that assuredly not an English summer.

It is curious to remark that in one form of bowls, of

which an illustration occurs in "Strutt's Games and Pastimes," the player drives the ball with a mallet through an arch, just as in croquet, proving, if there were need of proof, that there is nothing new under the sun.

After some research and consideration I have come to the conclusion that clesh, clash, kayles and cleshcayles mentioned in the statute of Henry VIII. are varieties of the same game, and that logating, löggeting and loggets are in the same class of sports, but that in some particulars they differ materially in the manner in which they were played.

KAYLES, written also cayles and keiles, most probably the still existent "quilles" of the French, was played with pins, and was the origin of nine pins, though from the old engravings which are to be found in "Strutt" the kayles do not seem to have been limited to any particular number. In one representation of the game there are six, and in another eight pins, differing also in shape, but this possibly was dependent on the fancy of the makers. In both cases one is taller than the others, and answered, no doubt, to the king pin of the modern game. The arrangement of the pins in the game of kayles was totally different from that of nine pins, the former being placed in one row, the latter on a square frame in three rows. In the game of kayles a club or stick was thrown at the pins instead of a bowl; hence it was sometimes called "club kayles." Sometimes, but most likely only by boys, who could not afford more expensive implements, bones were used for playing at kayles.

In an old play published in the reign of Queen Eliza-

beth, and called “The longer thou livest the more fool thou art,” a stupid fellow boasts of his skill “at scales, and the playing with a sheepe’s joynte.”

We come now to the game of CLOSH or *clash*, and this seems to have been very similar to kayles—indeed the only difference was that a bowl was used for throwing at the pins instead of a club or truncheon. Probably it differed but slightly from the nine pins or skittles of the present day, and I may remark that the kayle pins were called sometimes kittlepins, and, as we have seen in the quotation above that kayles was also called scayles, or scales, the transition from kittlepins to skittlepins and skittles is very easy.

In “The Merry Milkmaid of Islington,” a play published in 1680, one of the characters threatens his adversary thus:—“I’ll cleave you from the skull to the twist, and make nine skittles of thy bones.”

LOGGATTS or loggetts was a pastime analogous to kales and elosh, but played chiefly by boys and rustics, who substituted bones for pins. In one section of the statute, “loggeting in the fields” is mentioned amongst the “new and crafty games and plays” intended to be forbidden, but it is clear that it was also played in a place prepared for the purpose. Blount says:—“A logget-ground, like a skittle-ground, is strewed with ashes, but is more extensive. A bowl, much larger than the jack of the game of bowls, is thrown first. The pins which are called ‘loggets,’ are much thinner and lighter at one extremity than the other. The bowl being first thrown the players take the pins up by the thinner and lighter

“end, and fling them towards the bowl, and in such a  
 “manner that the pins may once turn round in the air,  
 “and slide with the thinner extremity foremost towards  
 “the bowl. The pins are about one or two and twenty  
 “inches long.”

In the play of “Hamlet” the following line occurs:—  
 “Did these bones cost no more the breeding but to play  
 “at loggats with them?” and Sir Thomas Hanmer, who  
 was Speaker in the House of Commons for thirty years,  
 and who published an edition of Shakspeare, explains the  
 word thus:—“Loggats is the ancient name of a play or  
 “game, which is one of the unlawful games enumerated  
 “in the 33rd statute of Henry VIII. It is the same  
 “which is now called kittlepins, in which boys often  
 “make use of bones instead of wooden pins, throwing at  
 “them with another bone instead of bowling.”

Here I think a few words may be introduced on the  
 subject of BILLIARDS, probably one of the most popular  
 games of the present day, and it is somewhat curious that  
 so seductive an amusement was not prohibited as mate-  
 rially interfering with artillery. It seems clear that in  
 some form or other this game was known and practised  
 at or about this period; and by the term “this period”  
 I mean the reign of King Henry VIII., who was so  
 anxious for the military education of his people.

Spenser, in “Mother Hubbard’s Tales,” has these  
 lines—

“With dice, with cards, with billiards much unfit,  
 “And shuttlecocks misseeming manly wit.”

Shakspeare mentions the game in “Antony and Cleo-

“*patra*,” and the Queen’s invitation to Charmian, “Let’s to billiards,” meets our eye daily in the advertisements of a billiard table-maker or keeper, I forget which. In his “Celebration of Charis” Ben Jonson says—

“ Even nose and cheek withal  
Smooth as is the billiard ball.”

Burton mentions the game in his “Anatomy of Melancholy,” as also do Locke and Boyle. Gayton, who annotated “Don Quixote” in 1654, speaks of billiards as one of the attractions of taverns. It is possible that billiards was included in the term bowls, and that it originally was played on the ground; indeed, we have at the present time a game called lawn billiards, and, although I never saw it played, materials for it are daily advertised by toy-dealers and others as being on sale.

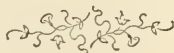
The derivation of the word is no doubt *pila*, a ball, and it is one of those games which may be said rather to have developed itself than to have been invented by any one in particular. The French, however, claim the merit of the invention, and assert that the discoverer was a certain Henricque de Vigne in the reign of Charles IX., 1560 to 1574. As I have before stated, on the authority of Strutt, a game very like croquet was played in very early times. The ball was driven through a hoop—and I believe with a mallet round a peg or cone, fixed—and this hoop and pin formed a portion of the materials for playing billiards on a table for a short period. In 1679, Evelyn saw at the Portuguese ambassador’s a table fitted up in this way, with more than the usual number of pockets. He says that the



balls were struck with the small end of the cue, which was shod with brass or silver. For a long time the mace was used, but it is now quite exploded, even by ladies, who we can easily see have a far better opportunity of displaying a pretty hand, when "making a bridge" is essential to their play. For this we have the authority of no less a person than Miss Braddon:—"Clarissa learned to elevate her pretty hand into the approved form of bridge, and acquired some acquaintance with the mysteries of canons and pockets." *The Lovels of Arden*, vol. 1, p. 145. Some exception may possibly be taken to the tautological construction of the passage in which "acquired acquaintance" occurs: but there it is.

Old billiard tables were made of different shapes, both oval and square, and one of the earliest games was played with divers erections called "passes," "forts," "reserved forts," "grand forts," "batteries," &c., and assumed a very intricate and combative form. In a copy of that very curious work "*Quarles' Emblems*" I find a quaint illustration of two Cupids playing at billiards on a tolerably modern table, with corner and side pockets complete. One Cupid, with a halo surrounding his head, intended to represent, as I imagine, a good and virtuous member of society, is endeavouring with a mace to drive his ball through a plain and unadorned arch placed on the table. The other Cupid is trying to send his ball through an arch formed like a wreath, with leaves and flowers. Both are playing with a mace, and not with a cue. The bow of the good Cupid is thrown carelessly on the floor. That of the bad or vain Cupid is carefully reared against the

table. In the same work there is a representation of a game at bowls. Mammon, represented by a man in a sort of Dutch costume, is opposed to a Cupid. Fortune, with her wheel and other attributes, is the goal, and the devil is superintending the game. Both illustrations, as well as the verses to which they are attached, are excessively quaint. The author, Francis Quarles, who was born in 1592, in the reign of Elizabeth, and died in 1644, in the reign of Charles the First, was cupbearer to Elizabeth, daughter of James I., and Queen of Bohemia; and subsequently secretary to Archbishop Usher, and chronologer to the city of London. How billiards is played at the present time, and how popular and scientific a game it is, is well known; and I have here alluded to it because it is highly probable that, under the name of bowls, it was an illegal game. Tennis and bowls having been made illegal by King Henry VIII., that amiable monarch—as we find from contemporaneous records—proceeded to build for his own use at Whitehall “divers fair tennis courts, “bowling alleys, and a cock-pit;” and it is curious to learn that keeping a cock-pit has been held to be an infringement of the very statute passed in the reign of this monarch for the suppression of gaming and the “maintenance of artillery.” Dalton, c. 46.



CHAPTER V.

How, Why and When certain other Games became  
Illegal.



## CHAPTER V.

### HOW, WHY AND WHEN CERTAIN OTHER GAMES BECAME ILLEGAL.

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FOR several reigns the law relating to games and gaming remained unaltered. In the year 1618 James I. issued a proclamation, or, as I find it termed, a declaration, that the undermentioned recreations should be lawful, viz., dancing of men or women, archery, leaping, vaulting, May games, Whitsun ales, morris dances, setting up May poles and other sports therewith used, and commanded that no such honest mirth or recreation should be forbidden to his subjects upon Sunday or holyday *after divine service ended*. This precious permission was confirmed by Charles I., who allowed further the feasts of dedications of churches, commonly called wakes, and all manly exercises to be there used with all freedom. Then came the days of the Puritans, and we are not surprised to find a learned writer in the reign of Queen Anne giving his opinion on these very sensible and reasonable declarations, as follows: “ *Tempora mutantur*. Our Gracious Queen and our Reverend Bishops will not patronise any such custom or allowance; and that the ignorant people were misled and thought such pastimes innocent sort of mirth appears by this story of a Welsh parson,—John, a poor boy, was

“ bred up at school, and being a plodding lad at his books  
“ used to assist some gentlemen’s sons that went to the  
“ same school. Afterwards John took a trip to the uni-  
“ versity, and got a degree and orders. He in process of  
“ time, upon some occasion, comes for London in a tattered  
“ gown. One day a gentleman that had gone to school  
“ with him meets him, and knew him. ‘Jack,’ saith the  
“ gentleman, ‘I am glad to see thee; how dost do?’  
“ ‘I thank you, noble squire,’ replied Jack. The gentle-  
“ man invited him to the tavern, and after some discourse  
“ of their school and former conversation, the gentleman  
“ asked him where he lived. Jack answered ‘In Wales.’  
“ The gentleman asked him if he were married. The  
“ parson replied he was, and that he had a wife and seven  
“ children. Then the gentleman enquired of the value  
“ of his benefice. The parson answered, ‘It was worth  
“ ‘9*l.* a-year.’ ‘Pugh!’ quoth the gentleman, ‘how canst  
“ ‘thou maintain thy wife and children with that?’ ‘Oh,  
“ ‘sir,’ quoth Jack, shrugging his shoulders, ‘we live by  
“ ‘the churchyard; my wife sells ale, and I keep a bear,  
“ ‘and after evening service my parishioners, being so kind  
“ ‘to bring their dogs to church, I bring out my bear and  
“ ‘bait him, and for about two hours we are at it—heave  
“ ‘and shove staff and tail till we are all very hot and  
“ ‘thirsty, and then we step in to our Joan and drink  
“ ‘stoutly of her nut brown ale; and I protest, squire  
“ ‘(saith he), we make a very pretty business of it.’”

I presume that bear baiting came under the category of  
“ May games, Whitsun ales, or other sports.”

Feasts of dedications of churches, or wakes, are still kept

up in the North of England with undiminished splendour, and there is a scandalous story believed by many which relates that the churchwardens of a certain parish, being in want of a bear to be baited at their wakes, sold the church bible for the purpose of raising funds for the purchase of the animal. In any endeavour to ascertain the truth or falsehood of this tale we get into this dilemma—either bibles were much dearer or bears were much cheaper in those days than they are now. Still it is interesting to mark how much in a comparatively short space *tempora* really *mutantur*.

In treating of the doings and legislation of James I., so far as they relate to our subject, it is but fair to record, that, although partial to many games and other sports, he was anxious that they should be indulged in with becoming decorum. Accordingly, he enacted in the third year of his reign, that—

“ If any shall in stage-play, interludes, show, or May-game, jestingly and profanely speak of or use the holy name of God, or Christ Jesus, or the Holy Trinity, he shall forfeit 10s. every time to the king and to the informer.”

In the reign of Charles II., an Act was passed to the full as important as that of Henry VIII., but it is curious to note how by degrees the legislature became more anxious for the personal and moral welfare of the subject, and how the reasons given for passing Acts changed. Henry VIII. was anxious to make his subjects warlike. Charles II., as might be expected, wished to reform their morals, and to prevent them being “lewd and dissolute.” Accordingly

the latter monarch passed "An Act against deceitful, disorderly, and excessive gaming" (16 Car. II. c. 7), which recites that "All lawful games and exercises should not be otherwise used than as innocent and moderate recreations, and not as constant trades or callings to gain a living or make unlawful advantage thereby, and that by the immoderate use of them many mischiefs and inconveniences arise, to the maintaining and encouraging of sundry idle, loose, and disorderly persons in their dishonest, lewd, and dissolute course of life, and to the circumventing, deceiving, couzening, and debauching of many of the younger sort, both of the nobility and gentry, and others, to the loss of their precious time and the utter ruin of their estates and fortunes, and withdrawing them from noble and laudable employments and exercises." By this Act, persons winning by fraud or cheating at cards, dice, tables, tennis, bowles, kittles, shovel-board, cock-fightings, horse-races, dog matches, foot-races, and all games and pastimes, were to forfeit treble the sum or value of the money so won.

Every person losing above 100*l.*, on ticket or credit, at these or any other games and pastimes, either by bearing a part in them or betting, was discharged from paying any part of the money; all securities given for it were to be void, and the winner was to forfeit treble the sum above 100*l.* so won. In a previous chapter I have stated that excessive gaming was illegal at common law, but it must have been difficult to decide how far a man might go without excess. What to one might be a large sum to another might be a trifling amount. This question was



by the above statute set at rest, but it was the parent of much litigation, of which, however, I will only give one instance in the form of a report, which will amuse my readers both from the peculiarity of the language and the subtlety of the points raised in it. It is the case of—

“*Pope v. St. Leiger.*”

In this case there was a wager of 100 guineas, not pounds, and although 100 guineas passed, as was admitted, for 107*l.* 10*s.*, it was urged that legally they were mere medals and only worth 20*s.* each, there never having been any proclamation to make them pass.

It is thus reported, in the quaint language of the period:—

“ This case was argued in B. R. on Error, 7 William and Mary. Broadrick (who was counsel for the plaintiff) demands one hundred guineas valoris 107*l.* 10*s.* in B. C. Defendant pleads that when the wager was laid he and the plaintiff were at play at tables at a game called backgammon, and pleads the statute of gaming, and avers this was for money won at play, and being for above 100*l.* was void by the statute. To which the plaintiff demurs and judgment was given for him in B. C., and we bring Error. And

“ 1.—I think debt will not lye on this wager. And

“ 2.—The plaintiff ought to declare of so many guineas, &c., Yelv. 80, 2 Cr. 86, 1 Lev. 41. Those cases I agree, but here a guinea is English money, of which the court takes notice, and in such cases it is never declared *ad valentiam*, Latch. 84. A guinea in law is no more than

“ 20s., and so you lately adjudged in this court in the  
“ case between Harrison and Byron, in which case it was  
“ adjudged (1) that the court judicially takes notice of a  
“ guinea; (2) that the legal value of it is but 20s., though  
“ by consent it may pass for more. So that this judg-  
“ ment is erroneous, 1 Sand. 316, the deed being entered  
“ on record, is parcel of the plea, and if by that it appears  
“ that the plaintiff has no cause of action he cannot have  
“ judgment, though the defendant has misbehaved himself.  
“ Hob. 149, 56. And therefore our admittance of the  
“ value of the guinea will not hurt us, for we need not to  
“ have mentioned this variance from the deed, and this  
“ was a point not touched in the Common Pleas. Then,  
“ *non constat* in that case (*in casu illo*), for it is not  
“ mentioned before, and the money is not to be paid by  
“ the deed before the groom porter has given his judgment  
“ in that case; then our plea is good, for we plead the  
“ statute of gaming, and that being at backgammon, these  
“ hundred guineas were wagered on that game, and so not  
“ for ready money, it is void by the statute against our  
“ own deed, 2 Cro. 253, Mo. 641, 2 Sid. 88, and the de-  
“ murrer hath confessed this; and though the averment is  
“ not good, yet it appears by the declaration to be within  
“ the words and intention of the statute of gaming, for the  
“ money is above 100*l.* and is lost on tickets; and it ap-  
“ pears by the declaration how it was lost, that it was at  
“ backgammon, and that the money was won at play at  
“ that game, though the judgment of the groom porter was  
“ at another time; and the statute of gaming would be of  
“ little use if it is not extended by by-bets, but only to the

“ gaming itself, and this Act hath always been construed  
 “ liberally; and therefore where a man lost 80*l.* at one  
 “ day, and then the parties agreed to play at another day,  
 “ when 80*l.* more was lost, this was adjudged to be within  
 “ the statute and to be but one loss, and that statute was  
 “ made to prevent great mischiefs. If any of the points  
 “ are for us, then I pray that the judgment may be re-  
 “ versed.

“ *Holt*, C. J.—Do you make laying a wager to be  
 “ within the statute of gaming? It is true they were at  
 “ play when the wager was laid.

“ *Eyre*, C. J.—Suppose that the wager had been, that  
 “ the tables were made of Brazeel, had this been within  
 “ the statute? Certainly no more shall this.

“ *Holt*, C. J.—Guineas were coined at the Mint for 20*s.*  
 “ only, and there was never any proclamation to make them  
 “ pass, though there was one to take the twenty shilling  
 “ pieces. It is true by consent they may pass for more  
 “ than 20*s.*, but legally no more is to be demanded for  
 “ them than 20*s.* The guinea was coined according to the  
 “ 20*s.* piece. We call them guineas by agreement, but  
 “ how can we take notice of what value they are? If the  
 “ plaintiff had declared of 20*s.* pieces we must judicially  
 “ have taken notice of them. Then suppose this should  
 “ be taken for gaming, as there was a case in my Lord  
 “ Hale’s time, the condition of a bond to perform cove-  
 “ nants (which were) to run an horse race, &c. *Vide supra*  
 “ Edgbury and Rosindale.

“ *Pemberton*, Serjeant (*arguendo*).—It is plain that this  
 “ is not within the statute of gaming, for to make it so it

“ must be betted on the hand of the plaintiff or defendant,  
“ but this wager was laid on a collateral matter on the right  
“ of play, which is not within the Act. As to the decla-  
“ ration the writing produced maintains it, for it is the  
“ very same with the declaration. Then we lay that the  
“ 100 guineas are valoris of 107*l.* 10*s.*, of which you must  
“ take notice, for it is a coin by itself, and is not any noted  
“ piece of the kingdom, as the twenty shilling pieces are,  
“ for there is no proclamation to make them pass, but a  
“ guinea is in nature of a medal and is more like a foreign  
“ coin, and is much of that nature, and there are several  
“ declarations of so many dollars valoris so much, and yet  
“ you know the value of a dollar, and this is like that  
“ which you cannot take notice of, because it is not the  
“ current coin of England.

“ *Holt, C. J.*—Brother, do you think that it is not  
“ high treason to counterfeit guineas? Certainly it is;  
“ the indictment shall not run for counterfeiting of guineas,  
“ but of so many pieces of 20*s.* value. A guinea is the  
“ current coin of the kingdom, and we are to take notice  
“ of it. The guineas are after the proportion of Carolus’s,  
“ that is 16*d.* weight less to the value of 20*s.* Only the  
“ question is, if we can take notice of the allegation of the  
“ value of guineas, because there are other sorts of them,  
“ as 5*l.* guineas. Where you declare on a foreign coin  
“ you must declare in detinet only, and not in the debet,  
“ and so in an action of debt for goods, as corn, &c.,  
“ though debt lies on the contract, yet it must be in the  
“ detinet only. Its always so unless the action of debt be  
“ for English money.

“ At another day—

“ If an action of debt is brought for the value of English money, as it may then, it is to be laid in the debet and detinet, but if it be for a foreign coin, or goods, as for a quarter of corn, and the plaintiff shows the value, as he must, there it must be in the detinet.

“ *Holt, C. J.*—Now here these are called guineas, which, if it is a coin not known in our law we must take them to be as goods.

“ *Eyre, Justice.*—Then the defendant confesseth the value of them as the plaintiff has alleged.

“ *Holt, C. J.*—But it is 100 *nummos aureos* (*Anglice*) guineas. What is that, it is very uncertain. Indeed if it had been 100 *pecias auri vocatus* guineas it had been well enough.

“ At another day the judgment in C. B. was reversed.”

The above case is curious as an illustration of the style of reporting prevalent about 200 years ago.

The game of “slide-thrift or shove-groat” is mentioned incidentally in the statute of Henry VIII., though not expressly made illegal by that statute. In the act of Charles II. shovel-board is alluded to, but cheating at that and other games is alone legislated against.

“ Among the domestic pastimes,” says Strutt, “ playing at Shovel-board claims a principal place. In former times the residences of the nobility, or the mansions of the opulent were not thought to be complete without a shovel-board table; and this fashionable piece of furniture was usually stationed in the great hall. The tables for this

“ diversion were sometimes very expensive, owing to the  
“ great pains and labour bestowed upon their construction.”  
“ It is remarkable,” says Dr. Plot, in his History of Staf-  
fordshire, “ that in the hall at Chartley, in Staffordshire,  
“ the shuffle-board table, though ten yards one foot and  
“ an inch long, is made up of about two hundred and sixty  
“ pieces, which are generally about eighteen inches long,  
“ some few only excepted, that are scarce a foot, which  
“ being laid on longer boards for support underneath, are  
“ so accurately joined and glued together, that no shuffle-  
“ board whatever is fre’er from rubbs or casting. There is  
“ a joynt also in the shuffle-board at Madeley Manor, on  
“ the borders of Cheshire, exquisitely well done.

“ The length of these tables, if they be perfectly smooth  
“ and level, adds to their value in proportion to its in-  
“ crease; but they rarely exceed three feet or three feet  
“ and a half in width. At one end of the shovel-board  
“ there is a line drawn across parallel with the edge, and  
“ about three or four inches from it; at four feet distance  
“ from this line another is made, over which it is neces-  
“ sary for the weight to pass when it is thrown by the  
“ player, otherwise the go is not reckoned. The players  
“ stand at the end of the table, opposite to the two marks  
“ above mentioned, each of them having four flat weights  
“ of metal, which they shove from them one at a time  
“ alternately; and the judgment of the players is to give  
“ sufficient impetus to the weight to carry it beyond the  
“ mark nearest to the edge of the board, which requires  
“ great nicety, for if it be too strongly impelled, so as to  
“ fall from the table, and there is nothing to prevent it,

“ into a trough placed underneath for its reception, the  
 “ throw is not counted ; if it hangs over the edge, without  
 “ falling, there are three reckoned towards the player’s  
 “ game ; if it be between the line and the edge without  
 “ hanging over, it tells for two ; if on the line, and not up  
 “ to it, but over the first line, it counts for one. The  
 “ game when two play is generally eleven, but the number  
 “ is extended when four or more are jointly concerned. I  
 “ have seen a shovel-board table at a low public-house  
 “ in Benjamin Street, near Clerkenwell Green, which is  
 “ about three feet in breadth and thirty-nine feet two  
 “ inches in length, and said to be the longest at this time  
 “ in London.”

The following passages occur in the “Merry Wives of Windsor,” act i, scene 1:—

“Falstaff: Pistol, did you pick Master Slender’s purse?

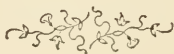
“Slender: Aye, by these gloves did he (or I would I might never come in mine own great chamber again else) of seven groats in mill sixpences and two Edward Shovel-boards, that cost me two shillings and twopence a-piece of Yead Miller, by these gloves.”

The coins above alluded to were no doubt pieces of the reign of Edward VI., and Folkes (tables of English silver coins) says that he has seen some of the date 1547, so thick as to weigh half-an-ounce, and some which weighed so much as an ounce. Hence the name “shovel-boards,” indicating that the coin was heavy enough to be used in playing that game.

“Shove-groat,” called also Slyp-groat, Slide-groat, and Slide-thrift, is occasionally mentioned by the writers of



the sixteenth and seventeenth centuries. Strutt says that it is confined to common pothouses, and only practised by such as frequent the tap-rooms. It required a parallelogram to be made with chalk, or by lines cut upon the middle of a table, about twelve or fourteen inches in breadth, and three or four feet in length, which is divided latitudinally into nine equal partitions, in every one of which is placed a figure, in regular succession from one to nine. Each of the players provides himself with a smooth halfpenny, which he places upon the edge of the table, and striking it with the palm of his hand, drives it towards the marks; and according to the value of the figure affixed to the partition wherein the halfpenny rests, his game is reckoned, which generally is stated at thirty-one, and must be made precisely; if it be exceeded, the player goes again for nine, which must also be brought exactly, or the turn is forfeited; and if the halfpenny rests upon any of the marks that separate the partitions, or overpasses the external boundaries, the go is void. The players toss up to determine who shall go first. Some add a tenth partition, with the number ten, to the marks above mentioned; and then they play with four halfpence, which are considered as equivalent to so many cards at cribbage; and the game is counted, in like manner, by fifteens, sequences, pairs, and pairials, according to the numbers appertaining to the partitions occupied by the halfpence.





CHAPTER VI.

Of Games and Gaming in the Reign of  
George the Second.



## CHAPTER VI.

### OF GAMES AND GAMING IN THE REIGN OF GEORGE II.



IN the reigns of William III., Anne and George I. lotteries seem to have become common, and several Acts were passed to prohibit them. Here, however, I may remark that although lotteries were, by Act of Parliament, made utterly illegal, they were carried on from a very early period up to the year 1826 with very great vigour by means of royal permissions in the form of letters-patent. As we have seen gaming, though prohibited to the *οι πολλοι*, was practised, and legally so, in royal palaces; and lotteries, though alleged by many statutes to be most injurious and destructive to the morals, were permitted whenever the King, the Queen, or the Parliament, thought that money was more wanted than morals; or perhaps, to put the matter more clearly, when the Royal exchequer ran somewhat low and required to be replenished at the expense of—well, no matter what. There is, however, so much interesting lore to be derived from the subject, that I have given a chapter to lotteries; but as the materials for such chapter would, if introduced here, interfere with

the chronological arrangement of my main work, I have preferred postponing the subject, and have merely noticed the above facts at this point casually.

The next Act bearing upon my subject is 2 Geo. II. c. 28, which is intituled, "An Act (amongst other things) for more effectual debarring of unlawful games."

The 9th section runs as follows:—

"Whereas a good and profitable statute is made in  
"the three-and-twentieth year of the reign of King Henry  
"the Eighth (among other things) for the debarring of  
"unlawful games. And whereas by the said statute no  
"power is given unto the justices of the peace to demand  
"and take from persons found playing contrary to law any  
"other security than their own recognizances, that they or  
"any of them shall not, from henceforth, use such unlawful  
"games, unless such persons are found playing contrary  
"to law upon the view of one or more justice or justices of  
"the peace; for remedy thereof be it further enacted, that  
"where it shall be proved upon the oath of two or more  
"credible witnesses before any justice or justices of the  
"peace, as well as where such justice or justices shall find  
"upon his or their own view, that any person or persons  
"have or hath used or exercised any unlawful game con-  
"trary to the said statute, the said justice or justices shall  
"have full power and authority to commit all and every  
"such offender and offenders to prison without bail or  
"mainprize, unless and until such offender or offenders  
"shall enter into one or more recognizance or recogni-  
"zances, with sureties or without, at the discretion of the  
"said justice or justices of the peace, that he or they re-

“spectively shall not thenceforth play at or use any such  
“unlawful game.”

This statute speaks for itself, but of course it applies only to games which were unlawful at the time it was passed.

We now come to a really important land-mark in the history of gaming legislation. I mean 12 George II. c. 28. It was avowedly passed to render more effectual the Acts alluded to at the commencement of this chapter; it dealt however with more than it professes to deal with. The first section prohibits lotteries under certain heavy penalties (200*l.* for each offence), and it contains a very full description of the nature of lotteries and the mode in which they were carried on, which is, however, too long to be transcribed here; but, as it is well worth the perusal of those who are curious on the subject, it will be found in the chapter on lotteries hereafter introduced. The directions as to the distribution of the fines are also worthy of notice. They run thus:—“Which said forfeitures shall go one-third to the informer, and the  
“remaining two-thirds to the use of the poor of the parish  
“where such offence shall be committed, excepting the  
“said two-thirds of such forfeitures which shall be incurred by and recovered upon any person or persons  
“within the *city of Bath*, which said two-thirds shall  
“go, and be applied to, and for, the use and benefit  
“of the poor residing within the hospital or infirmary  
“lately erected for the use and benefit of poor persons  
“resorting to the said city for the benefit of the mineral  
“waters.” By the second section of the Act the games

of the Ace of Hearts, Pharaoh, Basset, and Hazard are declared to be games or lotteries by cards or dice, and the penalty to be incurred by "the adventurers" was fixed at 50*l.* All sales by lottery were declared void, and the lands, goods, articles, &c., the subjects of a game or lottery, forfeited; but by sect. 10 it was enacted "That  
 " nothing in this Act, or in any former Acts against  
 " gaming, shall extend to prevent or hinder any person or  
 " persons from gaming or playing *at any of the games in*  
 " this or any of the former Acts mentioned *within any of*  
 " *His Majesty's royal palaces*, where his Majesty, his  
 " heirs, and successors shall then reside."

This clause refers to the custom, which prevailed up to a comparatively recent date, of "playing for the benefit of  
 " the groom porter." Gambling was perfectly legal if it took place under the roof of the palace of the Sovereign, and we constantly read in books of a century or so old of  
 " play at the groom porter's."

The games prohibited by this statute, viz., Ace of Hearts, Pharaoh, Basset, and Hazard, were clearly games with either dice or cards, and any minute description of the mode in which they were played would not be interesting to my readers.

Ace of Hearts was called also bone ace. Pharaoh, spelt also faro, was a popular game in France; for we read in old novels of reduced gentlewomen adding to their incomes by keeping a faro table, to which the high play permitted is said to have attracted a goodly company of ladies and gentlemen, amongst whom might be found a few adventurers and *chevaliers d'industrie*.

In Bohn's Handbook of Games, I find a long account of the mode in which Faro, Pharo, Pharaoh, or Pharaon is played, and to this work my readers may refer; to me it is utterly unintelligible.

I next come to Basset, which Bohn says is like Faro. Dr. Johnson thinks that it was invented at Venice. It was a very fashionable game towards the close of the seventeenth century, and is alluded to by Dennis, an old writer, in the following passage: "Gamesters would no more blaspheme, and Lady Dabcheek's Basset bank would be broke."

In Evelyn's diary, under the date January 25, 1685, is the following entry:—

"I was witness of the king (Charles II., of course) sitting and toying with his concubines, Portsmouth, Cleveland, Mazarine, &c. A French boy singing love songs in that glorious gallery (Whitehall), while about twenty of the great courtiers were at BASSET round a large table; a bank of at least 2,000*l.* in gold before them. SIX DAYS AFTER ALL WAS IN THE DUST."

Not quite all, but at any rate the body of a worthless and contemptible king.

Hazard was played with dice, and both Hoyle and Bohn profess to describe the game. I regret to say that I am obliged to make the same observation on the description of Hazard which I made on that of Faro.

The following passage occurs in one of Swift's works:—

"The duke playing at hazard, held in a great many hands together, and drew a huge heap of gold."

The next statute against gaming is 13th Geo. II. c. 19, and is entitled “An Act to restrain and prevent the excessive increase of horse races, and for amending an Act made in the last sessions of parliament, entitled ‘An Act for the more effectual preventing of excessive and deceitful gaming.’” With that portion of it which relates to the restraint of horse racing we have here nothing to do; but by the 9th section, which recites that “a certain game called *passage* is now daily practised to the ruin and impoverishment of his majesty’s subjects,” it is enacted that “the said game of passage, and all games invented, or to be invented, with one or more die or dice, or with any engine or device in the nature of dice, having one or more figures or numbers thereon (*backgammon* and games played with the backgammon tables only excepted), are and shall be deemed games or lotteries by dice, and shall be within the provisions of the Act before alluded to, 12th Geo. II. c. 28, and the penalties and forfeitures provided for under that statute are to be inflicted on all infringing the 13th Geo. II. c. 19.”

The game of Passage, called in French *passé dix*, is described by Grose as “a court game with three dice and doublets making up two or more, to pass or win. Any other chances lose.” In “The Complete Gamester,” published in the year 1680, it is laid down that “Passage is played at by but two, and it is performed with three dice. The caster throws continually until he hath thrown doublets under ten, and then he is out and loseth, or doublets above ten, and then he passeth



“ and wins.” The stock or fund, as also the place where the game is played, is called “ The Pass Bank.”

Evelyn, in his interesting diary, records that, “ On January 6, 1662, being Twelfth night, according to custom his Majesty (Charles II.) opened the revels by throwing the dice himself in the privy chamber, where was a table set on purpose, and lost his 100*l.* (the year before he won 1,500*l.*), the ladies also played very deep.” “ I came away,” says he, “ when the Duke of Ormond had won about 1,000*l.*, and left them still at PASSAGE, cards, &c., at other tables, both there and at the groom porter’s, observing the wicked folly and monstrous excess of passion amongst some losers. Sorry I am that such a wretched custom as play to that excess should be countenanced in a court which ought to be an example to the rest of the kingdom.”

We now come to the 18th Geo. II. c. 34. By this statute the game of roulette or roly-poly is denounced. The wording of the first section is amusing. It runs thus:—

“ Whereas, notwithstanding the many good and wholesome laws now in being for preventing excessive and deceitful gaming, many persons of ill-fame and reputation, who have no visible means of subsistence, do keep houses, &c., for playing, &c., by means whereof divers young and unwary persons and others are drawn in to lose the greatest part *and sometimes all their substance*; and it frequently happens that they are thereby reduced to the utmost necessities, and betake themselves to the most wicked courses, which end in their utter ruin.

“ And whereas a certain pernicious game called roulet or “ roly-poly is daily practised,” &c. Roulet or roly-poly is then placed in the same category with lotteries, passage, and the rest, and it is made illegal to play at that game excepting in his majesty’s palaces in which he is actually residing.

The game of Roulet, or Roly-poly, cannot have been the modern game of roulette, for in the statute it is called “ roulet or roly-poly, or any other game with cards “ or dice.” For the same reason it cannot be the game of roly-poly, said by Strutt to be a game with bowls. Most probably it was a game played with dice.

Certain curious passages in the “ Gentleman’s Magazine or Monthly Intelligencer” for May, 1731, show that George II. and his family kept up the custom before alluded to as being prevalent in the reign of Charles II. From that periodical we find that—

“ On Twelfth day the royal family appeared in the “ collars of their respective orders, attended divine service, “ and in the evening played at hazard for the benefit of “ the groom porter (see *infra*), and ’twas said the King “ won 600 guineas, the Queen 360, Princess Amelia 20, “ Princess Caroline 10, the Earl of Portman and Duke of “ Grafton several thousands.”

Oddly enough, on the same night “ Mr. Sharpless, “ high constable of Holborn division, with several of his “ petty constables, searched a notorious gaming house “ behind Gray’s Inn Walks, by virtue of a warrant under “ the hands and seals of the Right Honorable Lord “ Delawar, and eleven other of his Majesty’s Justices of

“ the Peace for the county of Middlesex, but the gam-  
 “ sters having previous notice all fled, except the master  
 “ of the house, who was apprehended, and bound in a re-  
 “ cognizance of 200*l.* penalty, pursuant to the statute  
 “ 33 Henry VIII.”

The following is a list of officers established in the most notorious gaming houses. I give it in the peculiar phraseology of the time, and taken from the same source, viz., “ The Gentleman’s Magazine ”:—

“ First, there is a commissioner, always a proprietor,  
 “ who looks in of a night, and the week’s account is audited  
 “ by him and two others of the proprietors.

“ Second, a director, who superintends the room.

“ Third, an operator, who deals the cards at a cheating  
 “ game called faro.

“ Fourth, two croupees, who watch the cards and gather  
 “ the money for the bank.

“ Fifth, two puffs, who have money given them to  
 “ decoy others to play.

“ Sixth, a clerk, who is a check upon the puffs to see  
 “ that they sink none of the money that is given them to  
 “ play with.

“ Seventh, a squib is a puff of lower rank, who serves  
 “ at half salary whilst he is learning to deal.

“ Eighth, a flasher, to swear how often the bank has  
 “ been stript.

“ Ninth, a dunner, who goes about to recover money  
 “ lost at play.

“ Tenth, a waiter, to fill out wine, snuff candles, and  
 “ attend in the gaming room.

“ Eleventh, an attorney, a Newgate solicitor (*sic*).

“ Twelfth, a captain, who is to fight a gentleman who is peevish for losing his money.

“ Thirteenth, an usher, who lights gentlemen up and down stairs and gives the word to the porter.

“ Fourteenth, a porter, who is generally a soldier of the Foot Guards.

“ Fifteenth, an orderly man, who walks up and down the outside of the door to give notice to the porter and alarm the house at the approach of the constables.

“ Sixteenth, a runner, who is to get intelligence of the justices’ meeting.

“ Seventeenth, link boys, coachmen, drawers, or others who bring the first intelligence of the justices’ meetings, or of the constables being out at half-a-guinea reward.

“ Eighteenth, common bail, affidavit men, ruffians, braves, assassins, *cum multis aliis*.”

A glance at the first licensing Act will bring me to the end of the reign of George II. It is 25 Geo. II. c. 36, and the preamble of this statute, like those of most of our old statutes, is very quaint and curious; it runs thus:—  
 “ Whereas the multitude of places of entertainment for the lower sort of people is another great cause of thefts and robberies, as they are thereby tempted to spend their small substance in riotous pleasures, and in consequence are put to unlawful methods of supplying their wants and renewing their pleasures.” The Act then proceeds, “ In order, therefore, to prevent the said temptation to thefts and robberies, and to correct as far as may be the habits of idleness which are become too general over

“ the whole kingdom, and are productive of much mischief  
 “ and inconvenience, be it enacted that any house, room,  
 “ garden, or other place, kept for public dancing, music,  
 “ or other entertainment of the like kind in the cities of  
 “ London and Westminster, or within twenty miles thereof,  
 “ without a license, had for that purpose from the last pre-  
 “ ceding Michaelmas quarter sessions of the peace, &c.,  
 “ shall be deemed a disorderly house or place.” The Act  
 then provides for the infliction of certain pains and penal-  
 ties upon the keepers of such disorderly houses and the  
 keepers of gaming houses, and sect. 8 runs as follows:—  
 “ And whereas by reason of the many subtle and crafty  
 “ contrivances of persons keeping bawdy houses (our an-  
 “ cestors were troubled with no mock modesty, and called  
 “ a spade a spade boldly), gaming houses, or other dis-  
 “ orderly houses, it is difficult to prove who is the real  
 “ owner or keeper thereof, by which reasons many no-  
 “ torious offenders have escaped punishment, be it enacted  
 “ that any person who shall at any time hereafter appear,  
 “ act, or behave him or herself as master or mistress, or as  
 “ the person having the care, government, or management  
 “ of any bawdy house, gaming house, or other disorderly  
 “ house, shall be deemed and taken to be the keeper  
 “ thereof, and shall be liable to be prosecuted and punished  
 “ as such, though not in fact the real owner or keeper.”

Although in the preamble of this Act gaming houses  
 are not mentioned, yet in the penal clauses they are classed  
 with the other houses against which the statute is directed,  
 and the leading case of *R. v. Rogier* (1 B. & C. 272) de-  
 cides clearly, that “ keeping and maintaining a common

“ gaming house, and for lucre and gain causing and procuring evil-disposed and idle persons to come there to play *rouge et noir*, and permitting such persons to play at such game for large sums of money,” is an offence indictable at common law.

The office of “Groom Porter” is alluded to in this chapter, and some information on the subject may be interesting to my readers.

Henry Fitzalan, Earl of Arundel, Lord Chamberlain to Henry VIII. from 1526 to 1530, in his book of directions compiled for the service of the king’s chambers and the duties of the officers lays it down that, “The roome and service of a groome porter,” is as follows:—“First, a groom porter ought to bring ladders for the hanging of the king’s chambers (with tapestry, &c.). To bring in tables, forms, tressels and stools, strand for beds, rushes (for strewing on the floors), and all other such necessaries belonging to the chambers, as the Gentleman Usher shall commend. He is also to bring to the chamber door and have ready there all manner of fuel, as wood and coal, and to have always ready torches, sises and other lights for the king’s chambers; he is further to see that the keeper sweep and clean the floors, walls, windows and roofs of all dirt and cobwebs before any of the king’s staff come within the said chambers, wherefore he hath his fee” (Antiq. Rep. 3, 291).

“The Groom Porter’s” is mentioned as a place of excessive play in the statutes of Eltham, passed in the 17th year of the reign of Henry VIII., in the year 1525—1526. One of these ordinances directs that the king’s privy

chamber shall be “kept honestly,” during the absence of the king, by such as are appointed to be there, “without using immoderate or continual play of dice, cards, or tables therein, howbeit the king can be contented that for some pastime, in the absence of his grace, they shall and may use moderate play, but that the said chamber be not used by frequent and intemperate play at the groom porter’s house” (Antiq. Rep. 2, 144).

In the year 1668, both Evelyn and Pepys allude to play at the groom porter’s. The latter says that after dinner he went, on New Year’s Day, to the Duke’s Theatre, thence to Whitehall, where he walked about for a short time. “By and bye,” he adds, “I met with Mr. Brisland, and having it in my mind this Christmas to do what I never can remember that I did, go to see the gaming at the groom porter’s, he did lead me thither, where, after staying an hour they began to play, about eight at night; and to see the formality of the groom porter, who is the judge of all disputes in play and all quarrels that may arise therein, and how his under officers are there to observe true play at each table and to give new dice, is a consideration I never could have thought had been in the world had I not now seen it.”

Evelyn in his diary, dated January 8, in the same year, 1668, says, “I saw deep and prodigious gaming at the groom porter’s, vast heaps of gold squandered away in a vain and profuse manner. This I looked on as a horrid vice and unsuitable in a *Christian* court” (the court of Charles II. to wit).

So recently as the year 1735, Chamberlayne, in his



“ Present State of Great Britain,” says, that the office of groom porter is to see the king’s lodging furnished with tables, chairs, stools, firing, &c., to provide cards, dice, &c., and to decide disputes arising at cards, dice, bowlings, &c.

In Jonson’s “ Alchemist,” act 3, the following passage occurs: “ He will win from me by irresistible luck, within this fortnight, enough to buy a barony. They will set him upmost at the *groom porter’s* all the Christmas.”

Mrs. Behn thus refers to the groom porter in “ The Widow Ranter,” act 1:—“ Faith, ill company, and that common vice of the town, gaming, soon ran out my younger brother’s fortune, for, imagining like some of the luckier gamesters to improve my stock at the *groom porter’s*, I ventured on and lost all.”

In Shadwell’s “ True Widow,” act 3, the groom porter is alluded to: “ Oh, happy man! I shall never need to sneak after a lord, to sing catches, to break jests, to eat and rook with him; I’ll get me a pack of fox dogs, hunt every day, and play at the *groom porter’s* at night.”

Lady Mary Wortley Montagu, in one of her town eclogues, says that,

“ At the groom porter’s battered bullies play,  
“ Some Dukes at Marybone bowl time away.”

So much for gaming under the auspices of the groom porter, to which institution many more allusions are to be met with in old plays and writings *passim*.



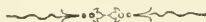
CHAPTER VII.

Of Games and Gaming in the Reign of George the  
Fourth, and down to the present Time.



## CHAPTER VII.

# OF GAMES AND GAMING IN THE REIGN OF GEORGE IV., AND DOWN TO THE PRESENT TIME.



IT is a somewhat curious fact that the laws relating to games and gaming remained *in statu quo* throughout the long reign of George III., at least I have not been able to find that any material alteration took place by statute or otherwise. Very little also was done in the ensuing reign, and the only Act to which I shall refer is, 5 Geo. IV. c. 83. This statute is entitled “An Act for the punishment of idle and disorderly persons, and rogues and vagabonds, in that part of Great Britain called England.”

At first sight one would wonder what this Act can have to do with games and gaming; but it cannot be denied that there is something of a Bohemian nature in our subject, and that the gulf between the aristocratic hazard and the plebeian pitch and toss is neither very wide nor very deep. Their predecessors having debarred our “swells” from the games of pharaoh, basset, ace of hearts, and dice, our middle classes from loggats, roly-poly, and clash-coyles, the Parliament of the good and virtuous King George IV. determined to make a raid upon the lowest order of gamesters and loose fish. Accordingly, by

sect. 4, it is enacted that "Every person pretending or  
"professing to tell fortunes or using any subtle craft,  
"means, or device, by palmistry or otherwise, to deceive  
"and impose upon any of his majesty's subjects; every  
"person wandering abroad and lodging in any barn or  
"outhouse, or in any deserted or unoccupied building,  
"or in the open air, or under a tent, or in any cart  
"or waggon, not having any visible means of subsistence,  
"and not giving a good account of himself or herself;  
"every person playing or betting in any street, road,  
"highway, or other open and public place at or with  
"any table or instrument of gaming at any game or pre-  
"tended game of chance, shall be deemed a rogue and  
"vagabond within the true intent and meaning of this  
"Act, and it shall be lawful for any justice of the peace to  
"commit such offender to the house of correction," &c.

This is the Act which made it an indictable offence to have in one's possession any picklock, key, crowjack, bit, or other implement, with intent feloniously to enter any house, warehouse, stable, &c., and the being armed with gun, pistol, cutlass, hanger, bludgeon, &c., with intent to commit a felonious act.

During the remainder of the reign of King George IV. no other Act was passed to which I need refer. In the next reign an Act 5 & 6 Will. IV. c. 59, was passed, prohibiting cockfighting, bear-baiting and other cruel games and amusements, if they can properly be so designated, and a very important measure was adopted for the purpose of amending the law relating to securities given for considerations arising out of gaming, usurious and

illegal transactions: however, the Acts passed in the present reign are so comprehensive, that I am satisfied that I may spare my readers the consideration of the intervening statutes, and pass at once to the 8 & 9 Vict. c. 109, the most important legislative measure on the subject which has been passed.

Extraordinary as it may seem, in the year of grace 1845—that is, just twenty-eight years ago—it was illegal for any person to play at bowls, quoits, tennis, or several other games of skill, in any public alley, court, or ground, constructed for the purpose; and it was also illegal for any artificer, servant, apprentice, husbandman, and so on through a long list of what may be termed compendiously the working classes, to play at the above and at a number of other games out of Christmas anywhere or in any place whatsoever. A landed proprietor or a lord might have his own private tennis court, quoiting ground, or bowling green, and therein play to his heart's content; and I find, on the authority of several old writers, that at one period no gentleman's or nobleman's mansion was considered complete without a bowling green; but your mere tradesman, serf, or vassal, was not permitted to indulge in any of these amusements. The object of these restrictions, however, as I have before said, was not the suppression of vice or the prevention of crime, or immorality of any sort or kind whatever, but “the mayntenance of artillery;” and the Legislature of Henry VIII. thought—how justly I cannot say—that by rendering the favourite amusements of the people unlawful they would be driven to shooting at the butts with bows and arrows through the sheer impossibility

of indulging in any other kind of recreation. In the year 1845, however, the absurdity of prohibiting games of skill, and compelling people to use bows and arrows, seems to have struck our legislators. Accordingly the Act 8 & 9 Vict. c. 109, was passed, and it did far more than legalize quoits and tennis, as we shall see.

It begins thus:—"Whereas the laws heretofore made  
" in restraint of unlawful gaming have been found of no  
" avail to prevent the mischiefs which may happen there-  
" from, and also apply to sundry games of skill from  
" which the like mischief cannot arise, be it enacted that  
" so much of an act passed in the thirty-third year of the  
" reign of Henry VIII. intituled 'The bill for maintain-  
" 'ing artillery and the debarring of unlawful games,'  
" whereby any game of mere skill—such as bowling,  
" coyting, closhcayles, half bowl, tennis, or the like—is  
" declared an unlawful game, or which enacts any penalty  
" for playing at such game of skill, or which enacts any  
" penalty for lacking bows or arrows, or for not making  
" or continuing butts, or which regulates the making,  
" selling, or using of bows and arrows, &c., &c., shall be  
" repealed." It then proceeds to repeal so much of the  
said Act as makes it lawful for every master, &c., to  
license his servants to play in accordance with the pro-  
vision of the old Act.

By the second section is defined what shall be sufficient evidence that a house is a common gaming house. The third section enables justices to issue their warrant authorizing constables, &c., to enter suspected houses; and by the fourth section certain penalties are inflicted on owners

and keepers of gaming houses, and bankers and croupiers acting in any manner in the keeping or conducting of a gaming house. Proof of actual gaming for money is not necessary to support a conviction, and the commissioners of police may authorize superintendents and constables to enter gaming houses, to seize instruments of gaming, and to take into custody all persons found therein. Sects. 7, 8, and 9, contain certain provisions for the search after gaming instruments, the evidence of gaming, and the indemnity of witnesses; and by the 10th, 11th, 12th and 13th justices are empowered to grant billiard licenses at the usual licensing sessions under certain restrictions. By the 15th section several statutes and portions of statutes relating to gaming are repealed, and notably that of Anne, which rendered it penal to win or lose at play, or by betting, at any one time the sum or value of 10*l.*, or within the space of twenty-four hours the sum or value of 20*l.* The seventeenth section is a very important one, for it makes cheating at play, which was always an offence at common law, punishable in the same manner as obtaining money by false pretences. The 18th section effected a most sweeping and beneficial change in the state of the law, for it rendered all contracts by way of gaming or wagering null and void. Hitherto all kinds of puzzling questions were wont to arise in our courts as to the legality of wagers and bets, and the valuable time of both judges and juries was occupied in deciding such questions, to the great detriment of the interests of legitimate suitors. All these are now set at rest for ever (at least I hope so). You may bet as much as you like, and on any subject whatever, but

you must trust to the honour of the man with whom you bet for the payment of the stake if you win, and he must in like manner trust to your good faith if he should be successful. So anxious have our legislators been to sweep away all semblance of an action on a wager that feigned issues by which, under the fiction of a bet, questions of title to property and goods were determined are, by another section of this statute, entirely abolished. It is, however, provided "That this enactment, 8 & 9 Vict. c. 109, shall not be deemed to apply to any subscription or contribution, or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner or winners of any lawful game, sport, pastime, or exercise."

The mode in which wagers were disposed of in our courts of law was somewhat curious. The action was brought on a supposed contract, which may be stated thus:—"A. asserts that such an event will occur or has occurred. B. denies such assertion, and then A. promises B. that if his assertion is not true he, A., will pay B. a certain sum, and B. promises A. that he will pay A. a certain sum if A.'s assertion is true."

This is a rough and ready way of stating the mode in which bets were decided by the courts, and of course the form of the supposed contract varied with the circumstances of each case.

When certain games became illegal, bets upon such games were illegal also, and many very curious points came before the judges for decision. At the risk of being accused of digressing, I here introduce one or two speci-



mens of Reports for the sake of their intrinsic quaintness, both of substance and language.

*Johnson v. Samworth.*

“ The defendant in consideration the plaintiff would give to him 5s., he would give to the plaintiff 40s. if he ever played at a game called Even and Odd, for money or wine. Plaintiff avers he gave him 5s., and that the defendant played at the same game for &c., such a day and year, whence an action accrued, and the plaintiff had a verdict. It was moved in arrest of judgment that there was no such play.” This was, in fact, the real question on which the defendant thought he should win the bet—what in these days we should call a dodge or trick—but the court decided it on a no doubt unexpected ground. “ But it was allowed, and the court approved of the consideration to restrain young men from gaming.” The plaintiff therefore kept his verdict, as may be seen by reference to my Lord Raymond his Reports.

*Medcalf's case.*

“ A. assumes (promises) to B., in consideration that J. S. won a game at Butts at one-and-twenty up, that he will pay to B. 10*l.*, and if not, then B. assumes to pay to A. 50*l.* It is a good mutual consideration.” More, 703.

*Sutton v. Jones.*

“ A. and B. play at tables, and in consideration the plaintiff assumed to give the defendant his mare if he

“ get five games, the defendant assumes to pay 5*l.* to the plaintiff if he win five games.

“ It is a good consideration for the hazard, though it be an unlawful game.” 1 Rol. Abr.

*West v. Sir John Stowell.*

“ Action on the case by West against Sir John Stowell. Plaintiff declared that the defendant, in consideration the plaintiff promised to the defendant that if the defendant should win a certain match at shooting made between the Lord Effingham and the defendant, then the plaintiff should pay to the defendant 10*l.*, promised to the plaintiff that if the Lord Effingham shall win the same match of the defendant, the defendant would pay to the plaintiff 10*l.*; and the Lord Effingham won the match.

“ Here the consideration is sufficient, being a reciprocal promise; for all the communication ought to be taken together. But per Manwood, such a reciprocal promise between the parties themselves at the match is sufficient, for there is consideration good enough to each, as the preparing of the bows and arrows, the riding or coming to the place appointed to shoot, the labour in shooting, the travel in going up and down between the marks; but for the betters by (spectators or by-standers betting on the match) there is not any consideration, if the better doth not give aim. A cast at dice alters the property if the dice be not false: wherefore then is not here a reciprocal action? Manwood. At dice the parties set down their monies and speak words that do amount to a conditional gift. Scilt. If the other party cast such a cast he shall have the money.” 2 Leon. 154.

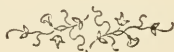
Cases of this nature might be multiplied *ad infinitum*. Actions were tried in the courts to recover money deposited on wagers made in “angels” as to the number of yards in a velvet cloak, wagers on cock-fights, running matches, &c., and the most quaint and curious theories were set up and advocated; but I must now return from a past time to more recent days, wagers upon games, legal or illegal, though perfectly lawful, can no longer come before our courts in any form, or under the cloak of any fiction whatever.

During the reign of our present Queen, Art Unions became very popular and successful, but they involved lotteries, and were clearly illegal; yet as they were considered productive of more good than harm, they were rendered legal by the statute 9 & 10 Vict. c. 48, under the definition of “Voluntary associations constituted for the distribution of works of art by lot,” provided a royal charter shall have been first obtained, as pointed out in the Act.

The next Act relating to gaming is 16 & 17 Vict. c. 119, directed against an evil which had sprung up and become rampant in a very short time,—I mean the nuisance, for nuisance they are, of betting houses. The facilities which they afforded to young men, and especially clerks and shopboys, to lose their own money and that of their masters were so great, that many cases of embezzlement by such persons occurred in the metropolis, and even country towns were in some degree injuriously affected by these establishments. By the last-mentioned statute betting houses were brought within the provisions

of the 8 & 9 Vict. c. 109, and prohibited as gaming houses; heavy penalties were imposed on the keepers, and the measure was in all respects very stringent.

In the following year was passed the statute 17 & 18 Vict. c. 38: it is intituled "An Act for the suppression of "gaming houses," and was passed in order to obviate the difficulty which the police met in their endeavours to obtain evidence to implicate the keepers of gaming houses, and to facilitate the conviction of offenders against the Acts already in force for the prevention of unlawful gaming. The preamble states, that the keepers of gaming houses are in the habit of fortifying their doors, and opposing the entrance of constables, until all instruments of gambling had been destroyed or concealed, and that, no conviction being obtainable, the violation of the law is persisted in; heavy penalties are therefore imposed upon those obstructing the police in their entrance into a suspected house, and such obstruction is to be evidence of the fact of the house being a gaming house. Penalties are also to be imposed upon persons giving a false name and address when apprehended in a gaming house, upon persons keeping gaming houses, and upon persons refusing to be sworn and give evidence, even though by so doing they may criminate themselves—in a word, the Act which came into operation on the 24th July, 1854, is very comprehensive in its provisions, but whether it is successful in effecting the desired object I am unable to say.



CHAPTER VIII.

The last Vagrant Act and a Report of an important  
Decision upon one of its Clauses.



## CHAPTER VIII.

### THE LAST VAGRANT ACT AND A REPORT OF AN IMPORTANT DECISION UPON ONE OF ITS CLAUSES.

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I HAVE now arrived at my last statute, and as it is my last and by no means my least important statute I give it, together with the observations and decisions which I have thought it right to make and chronicle, a separate chapter. The Act to which I refer is 31 & 32 Vict. c. 52, and it is intituled “ An Act to amend the Act for punishing idle and disorderly persons, and rogues and vagabonds, so far as relates to the use of instruments of gaming.”

The preamble is in these words “ Whereas it is expedient to amend an Act passed in the fifth year of the reign of his Majesty King George the fourth, chapter eighty-three, intituled, ‘ An Act for the punishment of idle and disorderly persons, and rogues and vagabonds, in that part of Great Britain called England;’ be it enacted as follows:”

It is then by sect. 3 enacted, that “ Every person playing or betting by way of wagering or gaming in any street, road, highway, or other open and public place, or in any place to which the public have or are per-

“mitted to have access, at or with any table or instrument of gaming, or any coin, card, token, or other article used as an instrument or means of such wagering on gaming at any game or pretended game of chance, shall be deemed a rogue and vagabond within the true intent and meaning of the recited Act, and as such may be convicted and punished under the provisions of that Act.”

The words “table or instrument of gaming, or any coin, card, token, or other article used as an instrument or means of such wagering or gaming at any game or pretended game of chance,” are so clear and ample that it seems almost impossible to raise a point on their construction. Pennies with a head on each face or a tail on each face, pennies with the normal features of pennies, coins in fact of any kind, cards, roulette boards, &c., &c. all seem to come within the provisions of the Act. However, the ingenuity of man is wonderful, and in the year of our Lord 1870 a machine was invented and put in operation which it was hoped would have the proverbial effect of driving a coach and horses through every statute against gaming. It was an instrument used for the purpose of betting on a race-course, and on the 10th of August, 1870, it was brought to bear on the race-course at Wolverhampton, and there and then, such race-course being a certain open and public place to which the public had access, it was used as an instrument or means of wagering or gaming at a game of chance, contrary, as it was urged, to the statute 31 & 32 Vict. c. 52. So the inspector of the borough police of Wolverhampton thought,



and he accordingly charged the persons using the machine of infringement of the law, and they were eventually convicted by the justices of the borough and sentenced to seven days' imprisonment with hard labour as rogues and vagabonds. Of course they appealed to the court of Queen's Bench, and the appeal was argued on the 3rd of May last on a case stated by the justices.

The case is reported, Law Rep., 6 Q. B. 514, as

“ *Tollett and Another*, Appellant, v. *Thomas*, Respondent.

The marginal note is as follows:—

“ By 31 & 32 Vict. c. 52, s. 3, any person playing or  
 “ betting in a public place with any table or instrument  
 “ of gaming at any game of chance, is liable to be convicted  
 “ as a rogue and vagabond.

“ The appellants were convicted under the above section,  
 “ on evidence from which it appeared that they were the  
 “ proprietors of a machine called a “ *pari mutuel*.’ The  
 “ machine had on it numbers, beside each of which were  
 “ three holes, and behind these holes were figures, which  
 “ by a mechanical contrivance were made to shift on the  
 “ turning of a key, so that any number from 0 to 999  
 “ would be exhibited behind these holes. On the top of  
 “ the machine was the word ‘*totals*,’ and beside it were  
 “ holes in which could be exhibited in a similar manner  
 “ figures shifting on the turn of the key. The appellants  
 “ took this machine to a race-course, and appropriated  
 “ each of the numbers to designate a particular horse  
 “ about to run a race. Any person who wished to bet  
 “ on a particular horse deposited with the appellants

“ half-a-crown, and received a ticket with the number  
 “ appropriated to the horse; and the appellants by a turn  
 “ of the key altered the figures, increasing the sum  
 “ indicated alongside of that number by one; and the  
 “ same turn of the key increased the figures beside ‘ total’  
 “ by one. When the race had been run the holders of  
 “ tickets with the number of the winning horse had divided  
 “ among them the amount of all the half-crowns deposited  
 “ less 10 per cent., which the appellants retained as pro-  
 “ prietors of the machine:—Held, that the machine was  
 “ an instrument of gaming within the statute; and that  
 “ the appellants had been rightly convicted.”

In the course of the argument several points were raised,  
 as, for instance, that horse racing was not a game of chance.  
 The judgment of the Court, delivered by the Lord Chief  
 Justice of England (Sir A. Cockburn), is so elaborate and  
 exhaustive, and at the same time so interesting, that I make  
 no apology for giving it here in full. It is as follows:—

“ This is a case stated for the opinion of this Court by  
 “ two justices who had convicted the appellants under  
 “ statute 31 & 32 Vict. c. 52, s. 3, which enacts that every  
 “ person playing or betting in a public place ‘ at or with  
 “ ‘ any table or instrument of gaming, or any coin, card,  
 “ ‘ token or other article used as an instrument or means of  
 “ ‘ such wagering *on* gaming, at any game, or pretended  
 “ ‘ game of chance,’ may be convicted and punished as a  
 “ rogue and vagabond.

“ There seems no doubt that the word *on* in this statute  
 “ is, by a clerical error, substituted for ‘ *or*,’ and that the  
 “ statute is to be read as if the word was ‘ *or*.’

“ The article which was actually used on this occasion  
“ is not sufficiently described in the case, but it was pro-  
“ duced in court, and we had the opportunity of personal  
“ inspection. It was a machine having on it numbers,  
“ beside each of which were three holes, and behind these  
“ again figures, which, by a mechanical contrivance, were  
“ made to shift on the turning of a key, so that any number  
“ from 0 to 999 could be exhibited behind these holes.  
“ On the top of the machine was the word ‘ total,’ and  
“ beside it were holes in which could be exhibited in a  
“ similar manner figures shifting on the turn of the key.

“ The appellants took this machine to the race-course,  
“ and there appropriated each of the numbers to designate  
“ a particular horse about to run in a race. Any person  
“ who wished to bet on a particular horse deposited with  
“ them half-a-crown, and received a ticket with the number  
“ appropriated to the horse selected by the better; and  
“ the appellants, by a turn of the key, altered the figures,  
“ increasing the sum indicated alongside of that number by  
“ one, and, as the machine was contrived, increasing by  
“ the same turn of the key the sum indicated by the figures  
“ beside the word ‘ total’ by one.

“ Thus if, at the beginning, when all the holes were  
“ filled up by cyphers, the first half-crown was deposited  
“ in exchange for a ticket bearing the number ‘ 1,’ the  
“ twist of the key would change the figures exhibited  
“ beside number 1 from 000 to 001 and at the same time  
“ change the figures exhibited beside ‘ total’ so as there  
“ also to show 1.

“ When the race was run, the holders of tickets which

“ had on them the number appropriated to the winning  
“ horse were entitled to divide among them the amount of  
“ the total, less 10 per cent., which was to be retained by  
“ the appellants, the proprietors of the machine.

“ Thus, with ingenuity worthy to be employed in a  
“ better cause, it was contrived that each person who was  
“ induced to bet might see at a glance what was the  
“ amount of the odds offered if he bet on any particular  
“ horse; but (and this is material to be observed) the  
“ state of the odds was liable to be changed before the  
“ race was run.

“ To illustrate what is meant, let us suppose that at  
“ some particular time the figures opposite ‘total’ indi-  
“ cated that 99 half-crowns had been deposited, and the  
“ figures opposite number 1 showed that, for some reason  
“ or other, no ticket has been taken out for that horse,  
“ anyone, seeing and understanding this, would know that  
“ if he deposited his half-a-crown and took a ticket for  
“ number 1, thus swelling the total to 100, he would, if  
“ things remained unaltered till the race was run, and the  
“ horse designated by number 1 won the race, as holder of  
“ his ticket receive 90 half-crowns. But he would also  
“ know that the odds were liable to be altered; for ex-  
“ ample, if 100 persons subsequently deposited half-crowns  
“ so as to swell the total to 200, and none took tickets for  
“ number 1, he would, in the event of number 1 winning,  
“ receive 180 half-crowns; but if 19 of these new deposi-  
“ tors took tickets for number 1, he would, in the event of  
“ number 1 winning, only receive 9 half-crowns; for the  
“ total would have to be divided between the holders of

“ number 1 tickets, by the supposition now 20 in number.  
 “ The person therefore who, by means of this machine, is  
 “ induced to part with his half-crown does so on a specu-  
 “ lation, his chance of remuneration depending on two  
 “ events: one, namely, whether his horse wins, determin-  
 “ ing whether he shall get back anything; the other,  
 “ namely, how many other gamblers shall have deposited  
 “ their half-crowns, and on what tickets, determining how  
 “ much he shall receive in the event of his winning. Over  
 “ neither event could he by any skill or efforts of his own  
 “ exercise any control.

“ There is no doubt that what was done was done in a  
 “ public place. The question for our decision is whether  
 “ the machine referred to in the case is an ‘instrument of  
 “ ‘wagering or gaming at a game of chance,’ within the  
 “ meaning of the Act, 31 & 32 Vict. c. 52, s. 3. This  
 “ again resolves itself into two questions: 1. Is the  
 “ machine an instrument of wagering or gaming? 2. Is  
 “ the game on which the wagering took place under the  
 “ circumstances stated a game of chance?

“ On the first question, it was argued, that the instru-  
 “ ment was not an instrument of wagering, inasmuch as  
 “ the wagering took place quite independently of it: the  
 “ use of the machine being confined to the registering of  
 “ the bets made; and that a book or large sheet of paper  
 “ might, though no doubt less conveniently, have been  
 “ made available for the same purpose. This argument,  
 “ though at first sight a specious one, will not in our  
 “ opinion hold. The machine in question is a mechanical  
 “ contrivance for enabling persons, willing to bet on the

“ event of a race, to ascertain the state of the bets already  
“ made on the different horses about to run, and to calcu-  
“ late the chances of winning according as they may bet  
“ on any particular horse. There can be no doubt that it  
“ materially assists the parties resorting to it in the opera-  
“ tion of betting, and we cannot doubt, therefore, that it  
“ is used as an instrument or means of betting. Whether  
“ some other contrivance might be resorted to which  
“ would not be ‘an instrument or means of wagering,’  
“ within the statute, is a question we may have to decide  
“ hereafter, but with which we need not trouble ourselves  
“ now. It is enough to say that the instrument in ques-  
“ tion is intended to assist persons in wagering, and  
“ undoubtedly has that effect. This being enough, we  
“ think, to bring it within the words, as it certainly is  
“ within the mischief, of the statute.

“ The second question is, whether the wagering thus  
“ carried on is wagering on a game of chance. It was  
“ urged upon us in the argument that the betting here  
“ being on the event of a horse-race, it could not be con-  
“ sidered as wagering on a game of chance, a horse-race  
“ not properly coming within such a definition. It is  
“ unnecessary to determine whether, if this instrument had  
“ been used simply for registration of bets on the events of  
“ a horse-race, the use of it would have been within the  
“ statute. Whether a horse-race be in itself a game of  
“ chance or not, we can entertain no doubt that, if some  
“ additional element of chance be introduced, the wagering  
“ on a horse-race may be converted into a game of chance.  
“ Thus, to use a familiar illustration, a lottery, in which

“ each individual draws a particular horse, on the success  
“ of which the winning of the stakes depends, would, we  
“ cannot doubt, constitute as between the parties to such  
“ a lottery a game of chance.

“ In the present instance, an element of chance is in-  
“ troduced, which, though not having any reference to the  
“ main event, namely, the result of the race in the winning  
“ of a particular horse, is yet essential to making the  
“ wager laid upon the winning horse profitable to the  
“ better. The winning of the horse betted upon is of  
“ course the primary condition of the wager being won.  
“ But whether the winning of the wager shall be pro-  
“ ductive of any profit to the winner, and more especially  
“ what the amount of that profit shall be, depends on the  
“ state of the betting with reference to the number of bets  
“ laid on or against the winning horse—a state of things  
“ fluctuating from one minute to another throughout the  
“ duration of the betting. Now this being something  
“ wholly independent of the issue of the race, as well as  
“ of the will and judgment of the winner, depending, as it  
“ does, on the will or caprice of the other persons betting,  
“ is a matter obviously of uncertainty and chance to the  
“ individual better, more especially in the earlier stages of  
“ the betting. There being, then, this element of chance  
“ in the transaction among the parties betting, we think  
“ it may properly be termed, as amongst them, a game of  
“ chance.

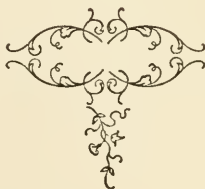
“ We quite agree that, though the case is obviously  
“ within the mischief contemplated by the statute, we  
“ ought not unduly to strain the words of the statute in



“ order to bring the case within it. But, as here chance  
“ has, as has been explained, a material influence in  
“ determining the result of the betting as a source of gain,  
“ it appears to us that we may properly hold the wagering  
“ in question to have been wagering on a game of chance.

“ That being so, as there can be no doubt that the  
“ race-course on which the betting was carried on was a  
“ public place within the meaning of the statute: we are  
“ of opinion that the conviction was right, and must be  
“ affirmed.”

It is a curious fact that the word “ coin ” was introduced into 31 & 32 Vict. c. 52, to remedy a defect in the law, it having been decided that halfpence, being Queen’s coin of the realm, were not “ implements of gaming,” and so pitch and toss was held to be a legal pursuit. *Watson v. Martin*, 34 L. J., M. C. 50.





CHAPTER IX.

Lotteries.



CHAPTER IX.  
L O T T E R I E S.



HAVING found it impossible to treat of lotteries in the chronological form adopted by me in this book, I have thought it best to dedicate a separate chapter to the subject. In this view I am confirmed, because I hope that, from the very nature of such a subject, and owing to the fact that I shall have to introduce a comparatively small amount of pure legal matter, this chapter may be found less tedious than other portions of this work, and even amusing to those who care little for the “quirks and quiddities” of the law. Lotteries, like games, with which indeed they were classed when mentioned in Acts of Parliament, were originally perfectly legal. Having, however, become very prevalent, and being thought to work mischief, either to the public or to the revenue of the country, they were prohibited by several Acts of Parliament, to which I shall in the proper place refer.

The first lottery which we read of as having taken place in England was commenced in the year 1569—in the reign of Queen Elizabeth. It is described as “A proposal for a very rich lottery, general without any blankes, containyng a great No. of good prizes, as well of redy money

“ as of plate and certain sorts of merchandises, having  
“ been valued and prised by the commandement of the  
“ Queene’s most excellent majestie’s order, to the intent  
“ that such commodities as may arise thereof after the  
“ charges borne may be converted towards the reparations  
“ of the Havens and strength of the realm, and towards  
“ such other publick good workes. The number of lotts  
“ to be four hundred thousand and no more, and every lott  
“ shall be the summe of tenne shillings sterling only and  
“ no more, to be filled by the feast of St. Bartholomew.”

Stow says that this lottery was begun to be drawn at the west door of St. Paul’s Cathedral on the 11th January, 1569, 11th Eliz., and that the drawing continued incessantly day and night until the 6th of May following. At first it was intended that it should be drawn at Mr. Dericke’s, the Queen’s jeweller, at whose shop the prizes were on view.

This lottery is mentioned in Maitland’s “London” and in the Gentleman’s Magazine, 1778; and here, lest I should be accused of plagiarism without acknowledgment, I may remark that in compiling this chapter I have been materially assisted by the works of Mr. Hone, a man whose talent for picking up interesting information on almost every subject was in his time unrivalled.

In 1586, 28 Eliz. “A lotterie of marvellous rich and  
“ beautifull armour was beguonne to be drawn at London in  
“ S. Paule’s churchyard at the great west gate (an house  
“ of timber and boord being there erected for that purpose) on St. Peter’s day in the morning, which lotterie  
“ continued in drawing day and night for the space of two

“ or three daies.” This is said by Stow to have been the second lottery drawn in England.

In 1619, 16 James I., a lottery was held at Reading for the purpose of raising a sum of money to be lent on certain conditions to six poor tradesmen, one of these conditions was that they should not keep either inn or tavern.

In 1630, 6 Charles I., the king granted a special license to Sir Edward Stradling and John Lyde to hold a lottery or lotteries in aid of a project to bring water from Hodsdon to London; but for this sole privilege of bringing the water in aqueducts they were to pay his majesty 4,000*l.* a-year.

In 1653, during the Commonwealth, the Grocers' Company held a lottery, or at all events advertised one to be held, at their hall for some object connected with their property in Ireland.

In the reign of Charles the Second, as may be easily conceived, lotteries became very rife and letters-patent were granted very freely. The favourite excuse seems to have been the relief of poor and indigent Royalists. The most famous lottery seems to have been the Royal Oak Lottery; but amongst the poorer classes twelvepenny lotteries were much in vogue.

A great plate lottery was held at the sign of the “Mermaid,” over against the Mews, in April, 1669, at which the King, the Duke of York, afterwards James II., and many of the nobility were present, and Mr. Phillips, who kept the “Mermaid,” advertised that those who wished for letters-patent to establish lotteries for indigent officers

might apply to him. The articles which furnished prizes were of every conceivable kind—plate, books, and especially valuable bibles, advowsons, land, jewellery, &c., &c. In 1683, Prince Rupert having died in reduced circumstances, a lottery of his jewels was advertised in the *Gazette*. By this time, however, as a matter of course, some cheating had taken place, and the public would have nothing to do with this lottery unless the king himself would attend and see all fair, and unless Mr. Francis Child, the goldsmith at Temple Bar, would be answerable for the due delivery of the prizes. Accordingly, in the *London Gazette* of the 1st October, 1683, the following notice appeared:—

“ These are to give notice, that the jewels of his late  
“ Royal Highness Prince Rupert had been particularly  
“ valued and appraised by Mr. Isaac Legouch, Mr. Chris-  
“ topher Rosse and Mr. Richard Beauvoir, jewellers, the  
“ whole amounting to twenty thousand pounds, and will  
“ be sold by way of lottery, each lot to be five pounds.  
“ The biggest prize will be a great pearl necklace, valued  
“ at 8,000*l.*, and none less than 100*l.* A printed particular  
“ of the said appraisement, with their division into lots, will  
“ be delivered gratis by Mr. Francis Child at Temple Bar,  
“ London, into whose hands such as are willing to be  
“ adventurers are desired to pay their money on or before  
“ the first day of November next. As soon as the whole  
“ sum is paid in, a short day will be appointed (which it  
“ is hoped will be before Christmas), and notified in the  
“ *Gazette*, for the drawing thereof, which will be done in  
“ his Majesty’s presence, who is pleased to declare that *he*

“ *himself will see all the prizes put in amongst the blanks,*  
 “ and that the whole will be managed with equity and  
 “ fairness, nothing being intended but the sale of the said  
 “ jewels at a moderate value. And it is further notified  
 “ for the satisfaction of all as shall be adventurers, that  
 “ the said Mr. Child shall and will stand obliged to each  
 “ of them for their several adventures. And that each  
 “ adventurer shall receive their money back if the said  
 “ lottery be not drawn and finished before the first day of  
 “ February next.”

A subsequent notice says, “ that the king will probably  
 “ to-morrow, in the Banqueting-house, see all the blanks  
 “ told over, that they may not exceed their number ; and  
 “ that the paper on which the prizes are to be written shall  
 “ be rollen up in his presence ; and that a child, appointed  
 “ either by his Majesty or the adventurers, shall draw the  
 “ prizes.”

Letters-patent were from time to time renewed in cases  
 in which the object was to relieve indigent Loyalists or  
 Royalists ; and from the Gazette of October 11, 1675, it  
 appears that those dated June 19, and December 17, 1674,  
 were granted for thirteen years to come under the designa-  
 tion of “ lotteries invented or to be invented to several  
 “ truly loyal and indigent officers in consideration of their  
 “ many faithful services and sufferings, with prohibition to  
 “ all others to use or set up the said lotteries.” The indi-  
 gent officers, however, might give deputations.

And now the flood of lotteries became overwhelming.  
 Penny lotteries, lucky adventures, Fortunatus lotteries,  
 “ marble board,” the Whimsey board, the figure board, the

Wyre board, and lotteries bearing all possible names, and set up for all kinds of purposes. The main purpose, however, seems to have been the extracting money from speculative gamblers.

Hone says that the Royal Oak Lottery, as the rival, if not the parent of the various other demoralizing schemes, obtained the largest share of the odium which was naturally provoked amongst reasonable men.

Private and cheating lotteries had now become so general, not only in London but throughout England, and people, especially servants and even children, were defrauded to such an extent that the legislature was forced to interfere, and the Act intituled 10 & 11 Will. III. c. 17, was passed avowedly with the object of suppressing lotteries, "even although they might be set up under "colour of patents or grants under the great seal." In the preamble of this Act it is boldly stated that such grants or patents "are against the common good, welfare and "peace of the kingdom, and are void and against law." The proprietors of such lotteries were accordingly forbidden to carry them on under a penalty of 500*l.*, and the fine to be inflicted upon each "adventurer" was fixed at 20*l.*

All to no purpose; lotteries flourished, and other statutes were launched against them from time to time, as I shall show, for more than 100 years with none effect. In the space of two months, for a lottery at Mercers' Hall, 1,500,000*l.* was subscribed, a sum which, considering the value of money in those days, must be deemed absolutely fabulous. The newspapers of the day teemed with adver-



tisements of lotteries, and any adventurer who could scrape together a few articles of slight value, endeavoured to dispose of them in this way. Goods of every description were turned into prizes, neckcloths, snuff-boxes, tooth-pick cases, linen, muslin and plate. The prices of the tickets were as low as sixpence, and gambling prevailed in small lotteries under the designation of sales of gloves, fans and wares of every sort. This state of things became absolutely intolerable, for it may well be conceived that the public were cheated in many ways, and by every possible contrivance. We find, therefore, that in the 10th year of the reign of Queen Anne an Act was passed subjecting the keepers of these lotteries to a penalty of 500*l.*, and in 1716, by another statute, all lotteries and undertakings resembling lotteries, or founded on the State lottery, were declared illegal and forbidden under a penalty of 100*l.* over and above the penalties imposed by previous Acts. (See "Anderson's History of Commerce," in which will be found many curious details relating to lotteries.) In May, 1715, a year previous to the passing of the last-mentioned Act, the proprietors of Sion Gardens advertised a very curious scheme for disposing of the deer in their park. They appointed the afternoons of Mondays, Thursdays and Saturdays for killing the animals. The public were admitted to witness the operation at a shilling a head, but those who took tickets to the amount of from 4 to 10 shillings were entitled to different parts of the deer. The quantity killed was divided into sixteen lots, and the first choice depended on the numbers on the tickets. A ten shilling ticket holder was entitled to a fillet, an eight

shilling ticket holder to a shoulder and so on. I have not been able to discover the exact mode in which the details of this *quasi* lottery were managed, but no doubt chance came in as an ingredient in the transaction.

In the 9th year of the reign of George II., Parliament passed an Act for building Westminster Bridge by a lottery, and subsequently other lotteries were authorized for its completion. By the 12 Geo. II. c. 28, lotteries were again attacked. The first section describes at some length the object of the statute, and as it may be interesting to certain of my readers I give a portion of it *verbatim*. It provided:—

“ That if any person or persons shall, after the 24th day of June, 1739, erect, set up, continue or keep any office or place under the denomination of a sale or sales of houses, land, advowsons, presentations to livings, plate, jewels, ships, goods or other things by way of lottery, or by lots, tickets, numbers or figures, cards, or dice, or shall make, print, advertise or publish, or cause to be made, printed, advertised, or published, proposals or schemes for advancing small sums of money by several persons amounting in the whole to large sums, to be divided among them by chances of the prizes in some public lottery or lotteries established or allowed by Act of Parliament, or shall deliver out, or cause or procure to be delivered out tickets to the persons advancing such sums, to entitle them to a share of the money so advanced according to such proposals or schemes; or shall expose to sale any houses, lands, advowsons, presentations to livings, plate, jewels, ships, or other goods by

“ any game, method or device whatsoever depending upon  
 “ or to be determined by any lot or drawing, whether it  
 “ be out of a box or wheel, or by cards or dice, or by any  
 “ machine, engine or device of chance of any kind whatso-  
 “ ever, such person or persons, and every or either of them,  
 “ shall upon being convicted thereof, before any one jus-  
 “ tice of the peace for any county, riding or division, or  
 “ before the mayor or other justice or justices of the peace  
 “ for any city or town corporate, upon the oath or oaths  
 “ of one or more credible witness or witnesses (which said  
 “ oaths the said justices of the peace and mayor are hereby  
 “ authorized, empowered and required to administer), or  
 “ upon the view of such justice or justices, or the mayor,  
 “ justice or justices for any city or town corporate, or on  
 “ the confession of the party or parties accused, shall  
 “ forfeit and lose the sum of two hundred pounds, to be  
 “ levied by distress and sale of the offender’s goods, by  
 “ warrant under the hands and seals of one or more jus-  
 “ tice or justices of the peace of such county, riding,  
 “ division, city or town where the offence shall be com-  
 “ mitted.”

By the second section certain games were declared to be lotteries, but these have been alluded to and described in a previous portion of this work, see *ante*, pp. 49 and 50.

By sect. 3 it was enacted,

“ That all and every person and persons who shall be  
 “ adventurers in any of the said games, lottery or lotteries,  
 “ sale or sales; or shall play, set at, stake or punt at  
 “ either of the said games of the ace of hearts, pharaoh,  
 “ basset and hazard, and shall be thereof convicted in

“ such manner and form as in and by this Act is prescribed;  
“ every such person or persons shall forfeit and lose the  
“ sum of fifty pounds, to be sued for and recovered as  
“ aforesaid.”

One would have thought that the effect of all these statutes, inflicting such heavy penalties, in some cases cumulative, would have had the effect of suppressing private lotteries called “ Little-goes,” especially as we find that they were by no means allowed to remain dead letters, as appears from reports of actions tried before Lord Mansfield and other learned judges of the day. Such, however, was not the case. State lotteries flourished; in the years 1778, 1779 and 1782, rules were laid down by Parliament and Acts passed for the regulation of lottery offices, and the conduct of those who kept them; and, it is almost needless to remark that, so long as lotteries of any kind were permitted, the temptation to make money fairly or unfairly, legally or illegally by this species of gambling was far too great to be resisted, and so other than state lotteries flourished. The mania extended even to India, for I find that a scheme was advertised in a Calcutta newspaper dated September 3, 1818, for raffling  
“ six fair pretty young ladies IMPORTED FROM EUROPE,  
“ having roses of health blooming in their cheeks, and joy  
“ sparkling in their eyes, possessing amiable manners, and  
“ highly accomplished, whom the most indifferent cannot  
“ behold without expressions of rapture, twelve tickets at  
“ twelve rupees each.” Possibly this was an advertisement inserted by way of what now would be termed  
“ a shave” or joke, but I give it for what it is worth.

An interesting book might be compiled from the anecdotes and stories with which the newspapers and other publications overflowed in the palmy days of lotteries, showing how one man was lucky, another unlucky, how beggars became rich, and how ragged boys from the street on the turn of the wheel were raised high above their previous state of poverty. The advertisements in prose and doggrel verse became a literature by itself, and the squibs and epigrams of the day were tinged with a lottery colour, and flavoured with a lottery taste almost unintelligible in these virtuous times. An account of the different modes in which lotteries were drawn, the instruments used, the precautions against unfairness, &c. would be interesting, but all out of place in this little Work.

The tickets were drawn from the wheel by Bluecoat boys, and it is a fact, that an order was issued from the Lords of his Majesty's Treasury, that the managers on duty should see that "the bosoms and sleeves of his coat be closely buttoned and his pockets sewed up, that he shall keep his left hand in his girdle behind him and his right hand open with his fingers extended," together with other precautions calculated to render cheating by the concealment of tickets or otherwise impossible. When it is stated as a fact that poor medical practitioners used constantly to attend in Guildhall when a lottery was drawn to be ready to let blood in cases where the sudden proclaiming of the fate of tickets in the hearing of the holders was found to have an overpowering effect, I think it will be admitted that it was high time to put an end to these exciting but deleterious games.

Incredible efforts were made to postpone the evil day, but in vain, and on Wednesday the 18th of October, 1826, the last state lottery was drawn. During the summer of that year the lottery office keepers almost incessantly plied men, women, and children throughout the United Kingdom with petitions that they would "make a fortune in the last lottery that can be drawn." Men paraded the streets with large placards on poles or pasted on their backs announcing the imminent death of all lotteries. Bills containing the same information covered the walls, were thrown down areas and thrust into the hands of passengers along the street. Prices of tickets were said to be rising, and in a word the inhabitants of the great metropolis were in a state of chronic ferment. One of the most important of the "contractors" in this last lottery was a man whose name was or purported to be BISH. He organized processions of fantastically attired men, bands of music, vehicles outrageous in size and gorgeous in colour. He had ballads (of some of which I am credibly informed the late Sam. Lover was the author) headed by rough woodcuts printed and circulated, and advertisements of every sort and kind disseminated, all having the object of informing the public that the last lottery was about to be drawn, and that BISH of 4, Cornhill, and 9, Charing Cross, was the only man with whom they could safely deal. This was the system pursued by all lottery contractors, but *Bish* we find out-Heroded Herod in this the last state lottery. Although it was said that shares in the last lottery went up to a premium, there seems considerable doubt whether in fact they were not arbitrarily raised, and whether in truth



many tickets did not remain in the hands of speculators unsold to the last. However this may be, lotteries in England expired on the 18th October, 1826. The fact was announced in the daily newspapers in the following terms:—

“ STATE LOTTERY.

“ Yesterday afternoon, at about half-past six o'clock, that  
 “ old servant of the state, the lottery, breathed its last,  
 “ having for a long period of years, ever since the days of  
 “ Queen Anne, contributed largely towards the public re-  
 “ venue of the country. This event took place at Cooper's  
 “ Hall, Basinghall Street; and such was the anxiety on the  
 “ part of the public to witness the last drawing of the lot-  
 “ tery, that great numbers of persons were attracted to the  
 “ spot, independently of those who had an interest in the  
 “ proceedings. The gallery of Cooper's Hall was crowded  
 “ to excess, long before the period fixed for the drawing  
 “ (five o'clock), and the utmost anxiety was felt by those  
 “ who had shares in the lottery for the arrival of the ap-  
 “ pointed hour. The annihilation of lotteries, it will be  
 “ recollected, was determined on in the session of parliament  
 “ before last; and thus a source of revenue bringing into the  
 “ treasury the sums of 250,000*l.* and 300,000*l.* per annum  
 “ will be dried up. This determination on the part of the  
 “ legislature is hailed by far the greatest portion of the  
 “ public with joy, as it will put an end to a system which  
 “ many believe to have fostered and encouraged the late  
 “ speculations, the effects of which have been and are still  
 “ severely felt. A deficiency in the public revenue to the

“ extent of 250,000*l.*, annually, will however be the consequence of the annihilation of lotteries, and it must remain for those who have strenuously supported the putting a stop to lotteries to provide for the deficiency.” See Hone’s Every-day Book, vol. 2, 1502.

This is certainly one way of looking at the matter; but Charles Lamb puts the abolition of lotteries in another and very ingenious point of view, which, as like all that he has ever written it is most clever and amusing, I lay before my readers. Writing in “The New Monthly Magazine” under his well-known *nom de plume* of Elia, he says:—

“ The true mental epicure always purchased his ticket early, and postponed inquiry into its fate to the last possible moment, during the whole of which intervening period he had an imaginary twenty thousand locked up in his desk. And was not this well worth all the money? Who would scruple to give twenty pounds interest for even the ideal enjoyment of as many thousands during two or three months? ‘*Crede quod habes, et habes,*’ and the usufruct of such a capital is surely not dear at such a price. Some years ago a gentleman, in passing along Cheapside, saw the figures 1,069, of which number he was the sole proprietor, flaming on the window of a lottery office as a capital prize. Somewhat flurried by this discovery, not less welcome than unexpected, he resolved to walk round St. Paul’s that he might consider in what way to communicate the happy tidings to his wife and family; but upon repassing the shop he observed that the number was altered to 10,069; and, upon inquiry, had the mor-



“ tification to learn that his ticket was blank, and had  
 “ only been stuck up in the window by a mistake of the  
 “ clerk. This effectually calmed his agitation; but he  
 “ always speaks of himself as having once possessed twenty  
 “ thousand pounds, and maintains that his ten minutes’  
 “ walk round St. Paul’s was worth ten times the pur-  
 “ chase-money of the ticket. A prize thus obtained has,  
 “ moreover, this special advantage; it is beyond the  
 “ reach of fate, it cannot be squandered, bankruptcy  
 “ cannot lay siege to it, friends cannot pull it down, nor  
 “ enemies blow it up; it bears a charmed life, and none  
 “ of woman-born can break its integrity even by the  
 “ dissipation of a single fraction. Show me the property  
 “ in these perilous times that is equally compact and im-  
 “ pregnable. We can no longer become enriched for a  
 “ quarter of an hour; we can no longer succeed in such  
 “ splendid failures; all our chances of making such a  
 “ miss have vanished with the last of the lotteries.

“ Life will now become a flat, prosaic routine matter-  
 “ of-fact; and sleep itself, erst so prolific of numerical  
 “ configuration and mysterious stimulants to lottery ad-  
 “ venture, will be disfurnished of its figures and figments.  
 “ People will cease to harp upon the one lucky number  
 “ suggested in a dream, and which forms the exception,  
 “ while they are scrupulously silent upon the ten thousand  
 “ falsified dreams which constitute the rule. Morpheus  
 “ will stifle Cocker with a handful of poppies, and our  
 “ pillows will be no longer haunted by the book of num-  
 “ bers.

“ And who, too, shall maintain the art and mystery of

“ puffing, in all its pristine glory when the lottery professors shall have abandoned its cultivation? They were the first, as they will assuredly be the last, who fully developed the resources of that ingenious art; who cajoled and decoyed the most suspicious and wary reader into a perusal of their advertisements, by devices of endless variety and cunning; who baited their lurking schemes with midnight murders, ghost stories, crimes, bon-mots, balloons, dreadful catastrophes, and every diversity of joy and sorrow to catch newspaper gudgeons. Ought not such talents to be encouraged? Verily the Abolitionists have much to answer for!”

I do not think I can finally dismiss my subject without transcribing a composition which appeared contemporaneously with the so-called “ Death of the Lottery,” in the following form and communicated to Mr. Hone, and printed in his *Every-day Book*, November 15, 1826:—

Epitaph.

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In Memory of

**THE STATE LOTTERY,**

the last of a long line,

whose origin in England commenced in the year 1569, which,  
after a series of tedious complaints,

EXPIRED

on the

18th day of October, 1826.

During a period of 257 years, the family flourished under the powerful  
protection of the

British Parliament ;

the Minister of the day continuing to give them his support  
for the improvement of the Revenue.

As they increased, it was found that their continuance corrupted the  
morals, and encouraged a spirit  
of Speculation and Gambling among the lower classes of  
the people; thousands of whom fell victims to their insinuating  
and tempting allurements.

Many philanthropic individuals

in the Senate,

at various times for a series of years, pointed out their baneful influence  
without effect,

His Majesty's Ministers

still affording them their countenance and protection.

The British Parliament

being at length convinced of their mischievous tendency,

HIS MAJESTY GEORGE IV.

on the 9th July, 1823,

pronounced sentence of condemnation on the whole race;  
from which time they were almost neglected by the British Public.

Very great efforts

were made by the partisans and friends of the family  
to excite

the public feeling in favour of the last of the race,  
in vain !

It continued to linger out the few remaining  
moments of its existence without attention or sympathy, and finally  
terminated its career unregretted by any

Virtuous Mind.

The 9th July, 1823, was the date of the royal assent to the Act for the suppression of State lotteries, and I may here remark that, however mischievous these State lotteries may have been, they were strictly legal, and, as a rule, held for the purpose of increasing the revenue.

The Acts which from time to time were passed to prohibit other lotteries were therefore passed for the purpose of preventing any interference with the State lotteries, threatened by schemes called "Little-goes," which may be described as little lotteries on the plan of the great State lotteries, and drawn in the same manner.

There were generally five or six "little goes" in the year, and they were actually set up and conducted by two or three of the licensed lottery office keepers.

The state lottery was the parent of these "little-goes." Persons who had not patience to wait till another State lottery, gambled in the meantime in a little-go, and a little-go was never heard of during the State lotteries. This appears from the report of a committee of the House of Commons on lotteries in the year 1808.

Much more might be written on this interesting subject, but, as this is a mere sketch, I must not lay myself open to the accusation of having attempted to write a complete history of lotteries and of having failed.

In the year 1826 the State lottery in England came to an end. It added to the revenue just as on the Continent lotteries are or were, until very recent times, profitable to the governments of the countries which authorized them as sources of revenue.

In Great Britain lotteries for State purposes are now at an end,—probably for ever.

On lotteries from the year 1826 to the present time I have little to say. In the present reign three Acts were passed, 7 & 8 Vict. c. 109, “to indemnify persons “connected with Art Unions and others against penalties;” 8 & 9 Vict. c. 74, prohibiting the advertising of lotteries; and 9 & 10 Vict. c. 48, for regulating Art Union lotteries, —with the exception of which all schemes of this nature are illegal.





CHAPTER X.

Being a Summary of the Contents of the preceding  
Chapters.

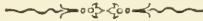
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## CHAPTER X.

### BEING A SUMMARY OF THE CONTENTS OF THE PRECEDING CHAPTERS.



I HAVE now finished my account of games and gaming affected by statutory enactments solely; and a short summary of the law as it was and as it now is relating to such games and gaming may be here aptly introduced.

Firstly, I may repeat that there is nothing in the abstract illegal in gaming, and that all the prohibitions against it are the work of statutes. Excessive gaming was looked upon with jealous eyes, and cheating was unlawful at common law, as it now is by statute.

Certain games were forbidden by some old Acts passed in the days of the Edwards (notably in the 17th year of the reign of King Edward IV.); but for all useful purposes we need go no further back than the reign of Henry VIII., who, by the statute passed in the thirty-third year of his reign, prohibited tables, tennis, dice, cards, bowls, clash, quoits, loggats, and other unlawful games, when played in certain places, at certain times, and by certain persons. This Act was passed for the purpose of encouraging the practice of artillery—in other words, bows and arrows; and, for further information, my readers are referred to my earlier chapters.

By statutes passed in the reigns of William III., Queen Anne, and George I., lotteries were forbidden, and by 2 Geo. II. c. 28, the provisions of those Acts were rendered more effectual.

By 12 Geo. II. c. 28, lotteries were again attacked, and the game of ace of hearts, pharaoh, basset and hazard were placed on the same footing with lotteries, and the penalty imposed upon "the adventurers" was fixed at 50*l*. By 13 Geo. II. c. 19, the game of passage was prohibited, and "all games invented, or to be invented, with one or "more die or dice," backgammon, and games played on a backgammon board, being excepted. By 18 Geo. II. c. 34, the game of roulet or roly-poly was forbidden. Then came the Act prohibiting playing or betting in any street, highway, or public place with any table or instrument of gaming at any game of chance. The next Act is 8 & 9 Vict. c. 109, legalizing games of skill, imposing penalties on the keepers of gaming houses, abolishing all actions on wagers and gaming contracts, and making cheating a misdemeanor. By this Act justices may license billiard tables, and a complete revolution in the law of games and gaming is effected. Art Unions are by a special statute excepted from the operation of the laws against lotteries. Two Acts for the suppression of betting and gaming houses were passed in two successive years; they are 16 & 17 Vict. c. 119, and 17 & 18 Vict. c. 38.

The last Act passed relating to my subject is the Vagrant Act, 31 & 32 Vict. c. 52. This statute prohibited playing or betting with any instrument of gaming

in a public place, and is fully referred to in my eighth chapter, in which I have given at some length a very important decision on the construction of the Act.

Under these statutes, therefore, which, with all the others relating to my subject, have been commented on in the preceding pages, the question now finally to be answered is—What games are legal and what illegal? Having very carefully considered this question, I have drawn up the following list, by reference to which my readers may see at a glance what my view of the matter is, at all events so far as modern games popular at the present time are concerned:—

#### LAWFUL GAMES AND SPORTS.

|             |                    |
|-------------|--------------------|
| Backgammon. | Foot Ball.         |
| Bagatelle.  | Foot Races.        |
| Billiards.  | Golf.              |
| Boat Races. | Knur and Spell.    |
| Bowls.      | Putting the Stone. |
| Chess.      | Quoits.            |
| Cricket.    | Rackets.           |
| Croquet.    | Rowing.            |
| Curling.    | Skittles.          |
| Dominoes.   | Tennis.            |
| Draughts.   | Whist.             |
| Fives.      | Wrestling.         |

To these may be added all games of skill, athletic sports and pastimes, and games at cards, excepting those mentioned below. Those enumerated in the above list are now legal, subject always to the law relating to licences of

billiard-rooms and public houses. The statute 8 & 9 Vict. c. 109, having effected so great a revolution, one wonders why it did not proceed a little further, and legalize all games neither dangerous nor immoral. For my part I cannot see why two people should not in their own private room play at games with dice or cards, or any implements whatsoever. I can conceive the propriety of prohibiting public gambling, although it really is treating grown men like children; but I cannot imagine what good can accrue from forbidding gaming in a man's own parlour, where no bad example can be set, no one's comfort interfered with, and no harm done to any but the players themselves. However, the following games are absolutely

#### UNLAWFUL GAMES.

Ace of Hearts.

Basset.

Dice (except Backgammon).

Hazard.

Passage.

Lotteries (except Art Union Lotteries).

Pharaoh.

Roulet, or Roly-poly.

Such being the case, whatever we may think of the propriety of forbidding any games innocent in the abstract, we must abstain from the temptation of playing at those above mentioned.



CHAPTER XI.

Games which have become Illegal without the aid  
of Statutory Enactments.



## CHAPTER XI.

### GAMES WHICH HAVE BECOME ILLEGAL WITHOUT THE AID OF STATUTORY ENACTMENTS.



IN my former chapters I have treated of games which, originally legal, were, for reasons considered perfectly satisfactory, rendered illegal by statute; and in process of time, for reasons considered equally satisfactory, restored to their pristine state by subsequent Acts of Parliament.

My readers will have noticed that by degrees the bias of our more modern legislation has been towards legalizing such games as have been found by experience to work no mischief to the community, either by demoralizing the subject or by turning the attention of the people to such sports as were likely to interfere with their conduct as good citizens of the world.

I now propose treating of games, sports and pastimes which, independently of Acts of Parliament, have become obsolete or illegal, owing mainly to the progress of civilization and the natural changes which have taken place in our manners and customs.

Of these games I may firstly select jousts and tournaments as pastimes involving a greater degree of violence than is consistent with our modern ideas, which happily tend more to peaceful than warlike amusements.

At one time war itself was a game or pastime, and any popular sport or pursuit which seemed likely to wean loyal subjects from warlike practices was thought hurtful to the well being and well doing of the nation, and was by degrees, as its popularity evinced itself, prohibited by statute. Hence it follows that warlike and athletic games would be encouraged as tending to make men stronger, more courageous, and more likely to render services to the State as warriors.

We are not, therefore, surprised to find that tournaments, sword playing, cudgel playing, and sports of a similar nature, were in the days of our ancestors very popular amusements, and, if illegal at common law, assuredly not legislated against.

It needs no argument to prove that tournaments, as formerly conducted, would be in these so-called degenerate days utterly illegal. That two gentlemen should now be allowed and even encouraged to ride at full gallop against each other, armed with wooden poles, and by every means in their power endeavour to unhorse and to do as much damage to each other as possible, would seem to us perfectly monstrous, even if we take into consideration the slight security that would be afforded them by the armour which they wore.

But when we remember that the gallant knights of old, who, unable to injure themselves or each other with comparatively innocent arms, were permitted and encouraged to continue the contest with real sharp-pointed lances, and when those were broken or otherwise rendered useless, to draw their swords, and with all their might to belabour



and in fact to wound, disable, or kill each other, we see at once that this state of things would not in these civilized days be permitted.

Thus it is clear the progress of civilization has effected an important change without recourse being had to any special Acts of Parliament. Common sense tells us that violent games, such as tournaments and justs, or jousts, played with deadly weapons, are now illegal, as endangering the life, which in days of old was considered of less value than it now is thought to be. Still, I like to have chapter and verse for whatever I state, and so, having recourse to my law books, I find that it is laid down in "Archbold's Pleading and Evidence in Criminal Cases," p. 521, in the last edition revised by my old friend the late Mr. Welsby, that "A tilt or tournament, the martial diversions of our ancestors, was nevertheless an unlawful act; and so are boxing and sword playing, the succeeding amusements of their posterity."

In support of this view, the cases *R. v. Perkins* (4 C. & P. 537); *R. v. Hargrave* (5 C. & P. 170), and *R. v. Murphy* (6 C. & P. 103), are cited. But with all deference to the learned editor, I cannot help thinking that he has laid the law down somewhat too broadly, as I hope to prove in the course of this work.

Notwithstanding the halo of romance with which the old chroniclers have surrounded jousts or justs, tournays and tournaments, and the delightful glamour which has been thrown over their accounts of these pastimes by the novel writers of the Sir Walter Scott school, I cannot but think that they must have been very "rough and tumble,"

and certainly very dangerous sports, and that so carried out, and when the actual danger to the combatants formed the main pleasurable ingredient, they would no doubt be now considered illegal games; perfectly legal when, as was the case in the more recent Eglinton tournament, and those held at Cremorne, the danger to life and limb was reduced to a *minimum*—tournaments only in name, but in fact mere pageants, intended as vehicles for the display of fine dresses, quaint garments, and old effete manners and customs.

It seems to me that the question, danger or no danger, is the *Lydius lapis*—the *Elenchus*—the touchstone to be applied in determining the legality or illegality of all games savouring of violence in which two or more are engaged.

The words “two or more” are important, for no attempt is made to prevent Blondin playing his games on an eighty feet high rope; Lulu, whether boy or girl, taking his or her perilous jump and triple somersault; or Leotard swinging at a fearful height on his bars and ropes; for their long practice has enabled the actors to go through their performances with tolerable safety to themselves; but when a second and untrained man, woman, or child is brought in as an agent in the game the case is widely altered, and M. Blondin may not wheel his innocent child across his rope without some more than ordinary precaution against the chance of danger accruing to the unconscious baby.

There seems little doubt that games involving danger to life or limb, to be illegal, must be played by more than one person, and here I, in the pursuit of my argument,

am met by a serious difficulty. Supposing two persons agree to play at a dangerous game in such a place and under such circumstances that they will not and cannot be guilty in so playing such game of a riot or a breach of the peace. What crime *are* they guilty of?

Now I can easily understand that a tournament, a fencing match, a boxing match, a wrestling match, or even a rowing match may engender a riot or end in a breach of the peace.

I can also understand that if any angry feelings are allowed to prevail, either at the beginning, in the middle, or at the end of any of the above matches, each and all of them may degenerate into illegal pastimes, but it is hard to understand how a friendly contest, if conducted in a friendly manner and under such circumstances of time and place as not to be offensive to the public, can be illegal, unless indeed deadly weapons be used.

The whole thing is a puzzle to me. It has been decided that a man may consent to an assault upon himself, in other words, that an assault is no assault if consented to by the person assaulted. *R. v. Banks*, 8 C. & P. 574; *R. v. Martin*, 9 C. & P. 213. And in *Christopherson v. Bare* (11 Q. B. 473), my Lord Denman says, "It is vain to contend that an assault could exist except against the will of the party assaulted;" and Mr. Justice Patteson adds, "An assault must be an act done against the will of the party assaulted." Mr. Justice Coleridge in the same case lays it down that "The defendant might show that the assault was no assault in point of law, but done in the course of sport and by the plaintiff's leave."

Here I may remark that at one time I was half persuaded that even a prize fight might be so arranged and carried out as to be legal, but contests of this nature have become so utterly disreputable, and have fallen into such low and blackguard hands, that I am compelled to discard them entirely from my notice, and once for all I must be taken to ignore this sport or pastime, if such it can be called, and to place it in the same category with bull, bear, and badger baiting, and other brutal pastimes, to be alluded to in their proper places hereafter.

Even if this were not so, I am silenced by the late Mr. Justice Patteson, who decided, in the case of *R. v. Perkins* (4 C. & P. 537), that a prize fight was illegal as constituting a breach of the peace, and that not only the principals but all taking part therein were indictable. That learned judge laid down the law thus—"It is clear  
" there is no doubt that prize fights are altogether illegal,  
" indeed just as much so as that persons should go out to  
" fight with deadly weapons. It is not at all material  
" which party struck the first blow. It is proved that all  
" the defendants were assisting in this *breach of the peace*,  
" and there is no doubt that persons who are present on  
" such an occasion, and taking any part in the matter, are  
" all equally guilty as principals. There is no distinction  
" between those who concur in the act and those who  
" fight."

As over tournaments, so over prize fights, a mantle of romance has been thrown. Arguments have been used to show that "the fist" is a more English weapon than "the knife," and some there are now living who remember

when fights took place on a stage in Hyde Park, patronized by Royalty itself.

Encouragement was given to the study of the "noble art of self-defence," as it was called, in order to improve the stamina of the youth of Great Britain, and that such improvement, to a certain extent, was the result, is true, just as encouragement given to horse racing was supposed to improve, and, for a time, did improve, our breed of horses. But in both cases, I fear, a parallel may be drawn little favourable to the view that the hopes originally formed have been fully realized.

When Sayers fought Heenan all England was excited. When Heenan fought Tom King there was scarcely less excitement. But all that is over and ended. Prize-fighting has, thanks to the folly of the pugilists and their friends, gone for ever as a sport, pastime, or game, such as can or ought to be commented on in a respectable book, such as I hope this will prove to be.

One thing is tolerably certain, that, as in the case of prize-fighting, so in that of the holding of tournaments or jousts, little privacy can be hoped for or expected. Therefore, if even it be perfectly lawful for two men to batter each other about the head or body, or, in short, to contend in a tournament or joust, as was the usage of our ancestors, their combats would be public, and, because public, probably illegal as constituting a breach of the peace, and, if dangerous weapons were used, most assuredly such contests would be utterly unlawful.

Some account of the origin and mode of conducting such games or pastimes will come within the scope of this

little work, and be interesting to my readers. So, in my next chapters, to which this is only an introduction, I purpose to give a sketchy history of jousts and tournaments, compiled from dear old Strutt, whose language and arrangement of subjects I have here and there interfered with, but whose admirable treatise on the sports and pastimes of our country I have taken as a foundation, and a very large and important foundation, for remarks of my own, in which I have introduced verifications of the authorities quoted by Strutt, and to which I have added a few discoveries of my own in the literature, both ancient and modern, bearing on my subject.



CHAPTER XII.

Tournaments in General.





## CHAPTER XII.

### TOURNAMENTS IN GENERAL.



IN this chapter I propose to treat of tournaments and jousts; and for the better enabling me to do so I must, as I have before stated, have recourse to Strutt, who lays it down authoritatively that tournaments and justs (sometimes spelt jousts), though often confounded with each other, differ materially. The tournament was a conflict with many knights, divided into parties, and engaged at the same time. The just was a separate trial of skill, when only one man was opposed to another, and it was frequently included in the former, but not without many exceptions; for the just, according to the laws of chivalry, might be made exclusive of the tournament.—(Du Cange's Glossary, under the head "Justa.")

In the romantic ages both these diversions were held in the highest esteem, being sanctioned by the countenance and example of the nobility, and prohibited to all below the rank of an esquire; but at the same time the justs were considered as less honourable than the tournaments; for the knight who had paid his fees and been admitted to

the latter, had a right to engage in the former without any further demand, but he who had paid the fees for justing only, was by no means exempted from the fees belonging to the tournament, as will be found in the laws relative to the lance, sword, and helmet, to which I shall allude a little further on.

Some information as to the origin of the tournament, properly so called, may be acceptable to my readers. I therefore proceed to give a sketch of such origin, interspersed with facts and matters connected with my subject, which I trust will be, if not very interesting, at all events not over tedious.

Strutt is of opinion that the tournament originated from a pastime practised by the Roman youths, called *Ludus Trojæ* (the Troy game), so named because it was derived from the Trojans, and first introduced into Italy by *Ascanius*, the son of *Æneas*. Virgil has given a description of this pastime, as it was practised at Rome. If he be accurate, it seems to have consisted simply of a varied series of evolutions performed on horseback. He tells us that the youth were each of them armed with two little spears, headed with iron:—

*Cornea bina ferunt præfixa hastilia ferro.*

*Æneid*, lib. v. 556.

Having passed in review before their parents, upon a signal given they divided themselves into three distinct companies; and each company consisted of twelve champions, exclusive of its leader; when, according to Trapp's

translation, (which is more literal than that given us by Dryden,) the tutor of Ascanius, and overseer of the sports:—

————— Epityden, from far  
 Loud with a shout, and with his sounding lash  
 The signal gave: they equally divide,  
 The three commanders open their brigades  
 In sep'rate bodies; straight recall'd they wheel  
 Their course, and onward bear their hostile darts.  
 Then diff'rent traverses on various grounds  
 And diff'rent counter traverses they form;  
 Orbs within orbs alternately involve,  
 And raise th' effigy of a fight in arms,  
 Now show their backs in flight, now furious turn  
 Their darts;—now all in peace together ride.

(See the original quotation, which I give at page 129.)

Under the rule of the first emperors these games were publicly practised by the young nobility in the circus at Rome. But, search as we will, it is very difficult, if not impossible, to ascertain the precise period at which games which partook of the nature of tournaments ripened, as it were, into tournaments proper; and it is still more difficult to determine by whom they were invented. Most likely, to adopt an illustration of which I am ashamed, but which may be excused as being appropriate, they “grewed” out of other games.

Peacham, in the “Complete Gentleman,” p. 178, on the authority of Nicetas, tells us that the Emperor Emmanuel Comminus, at the siege of Constantinople, invented lists and tournaments, but the French and the Germans both

claim the honour. The historian, Nithard, mentions a military game frequently exhibited in Germany before the Emperor Louis and his brother Charles the Bald, about the year 842, which bears great resemblance to the tournament, for he speaks of many knights of different nations, divided into parties equal in number, and running at each other with great velocity, as though they were in battle: *Veluti invicem adversari sibi vellent, alter in alterum veloci cursu ruebat.* Most of the German writers, however, aver that the Emperor Henry I., surnamed l'Oiseleur, who died in 936, was the "institutor" of these pastimes; others, however, attribute their origin to another Henry, at least a century later. The French, on their side, quote an ancient history, which asserts that Geofry, Lord of Previli in Anjou, who was slain at Gaunt, Ghent or Gand, in the country now called Belgium, in 1066, was the inventor of the tournament.

Tournaments, or sports bearing close resemblance to them, were established in England in the twelfth century, and probably at a much earlier period. Fitzstephen tells us "that every Sunday in Lent, immediately after dinner, " it was customary for great crowds of young Londoners, " mounted on war horses, well trained, to perform the " necessary turnings and evolutions, to ride into the fields " in distinct bands, armed, ' hastilibus ferro dempto,' with " headless lances, where they exhibited the representation " of battles, and went through a variety of warlike exercises; at the same time many of the young noblemen who " had not received the honour of knighthood, came from

“ the king’s court, and from the houses of the great barons,  
 “ to make trial of their skill in arms, the hope of victory  
 “ animating their minds. The youth being divided into  
 “ opposite companies encountered one another; in one  
 “ place they fled and others pursued, without being able  
 “ to overtake them; in another place, one of the bands  
 “ overtook and overturned the other.”

The Roman youth, as I have previously stated, presented their lances towards their opponents in a menacing position, but without striking with them :

Inde alios ineunt cursus aliosque recursus  
 Adversis spatiis, alternosque orbibus orbes  
 Impediunt, pugnæque cient simulacra sub armis :  
 Et nunc terga fugâ nudant ; nunc spicula vertunt  
 Infensi ; factâ pariter nunc pace feruntur.

*Æneid*, lib. v. 586.

(This passage will be found translated into the vernacular at page 127, *supra*.)

The young Londoners no doubt went further, and actually tilted one against the other. At any rate, the frequent practice of this exercise must have taught them, insensibly, to become excellent horsemen. Whether or not, the “ Troy game” was the origin of tournaments and jousts, it seems tolerably clear that they arose by slow degrees from the exercises appointed for the instruction of the military tyros in the art of using arms; but which of the two had the pre-eminence in point of antiquity cannot easily be determined. We know that both of them were

in existence at the time the Troy game was practised by the citizens of London, and also that they were not permitted in England.

In the middle ages, when tournaments were in their splendour, the Troy game was still in existence, though in a transition state of improvement, and distinguished by a different denomination. It was then called in Latin *behordicum*, and in French *bohört* or *behört*, and was a kind of lance game, in which the young nobility exercised themselves to acquire address in handling arms and proving their strength. Some authors derive this word from *burdir*, or *bordir*, to jest, joke, or make game, and therefore it may mean a playful pastime or combat, such as youth might engage in. The word *behordicum* will, however, admit of a more enlarged signification; from a quotation which is given by Du Cange, we find it was occasionally used for running at the quintain.

Emmi le pre ot quintaine levée.  
Li jouvenceel behordent par la prèe.

Which may be freely translated: They raised a quintain in the midst of a meadow, and the youth tilted at it along the meadow. In fact it might be applied to any of the military exercises performed by the young men, either for pastime or improvement.—(Roman D'Aubrey, *apud* Du Cange.)

Menestrier says “they formerly used hollow canes instead of lances, and for that reason it was also called the cane game;” but if the sport of tilting with such harmless

weapons ever arrived at the dignity of being so called, there is no authority for placing it at an earlier period than the twelfth century. Hoveden, who wrote his "Annals" about the year 1191, tells us that Richard I. of England, being at Messina, the capital of Sicily, on his way to the Holy Land, went with his cavalcade one Sunday afternoon to see the popular sports exhibited without the walls of the city, and upon their return they met in the street a rustic driving an ass loaded with hollow canes, "*arundines quas* " *cannas vocant.*" The king and his attendants took each of them a cane, and began by way of frolic to tilt with them one against another. It so happened that the king's opponent was William de Barres, a knight of high rank in the household of the French king, "*quidam miles* " "*optimus de familia regis Francia.*" In the encounter they broke both their canes, and the monarch's hood was torn by the stroke he received, "*fraeta est cappa regis,*" which made him angry; when, riding with great force against the knight, he caused his horse to stumble with him, and while he was attempting to cast him to the ground his own saddle turned round and he himself was overthrown. The king was soon provided with another horse, stronger than the former, which he mounted, and again assaulted de Barres, endeavouring by violence to throw him from his horse, but he could not, because the knight clung fast to the horse's neck. Robert de Bretnil, newly-created Earl of Leicester, laid hold upon de Barres to assist the king, but Richard forbade him to interfere, desiring that they might be left to themselves. When they had contended a long time, adding threats to



their actions (“*et dictis et factis*”), the king was much provoked, and commanded him to leave the place and appear no more before him, declaring at the same time that he would ever after consider him as an enemy ; but through the mediation of the King of France, a reconciliation was effected, and the knight was again restored to the favour of the monarch.

So much for the magnanimity of the king and the supposed origin of tournaments.

As to the derivation of the name of this pastime, Strutt says :—

“ The word tournament in English, in French (old French) *tournoyement*, points to a game or sport in which the main feature was that the players or combatants should wheel or turn about in a circular manner, and comes from the French word *tournoy*, which, according to the generality of authors, is derived from the Latin *troja*. This does not appear consistent with any reasonable analogy. I am rather led to adopt the opinion of Fauchet, who thinks it came from the practice of the knights running *par tour*, that is, by turns at the quintain, and wheeling about successively in a circle to repeat their course ; but, says he, in process of time they improved upon this pastime, and to make it more respectable ran one at another, which certainly bore a much greater similitude to a real engagement, especially when they were divided into large parties, and meeting together combatted with clubs or maces, beat-



“ing each other soundly without any favour or paying the least respect to rank or dignity.

“In one of these encounters, Robert, Earl of Claremont, son of St. Louis, and head of the house of Bourbon, was so severely bruised by the blows he received from his antagonist that he was never well afterwards. This, says Fauchet, was possibly the cause of the ordinance, that the kings and princes should not afterwards enter the lists as combatants at these tournaments; which law, indeed, continues he, has been ill-observed by the succeeding kings, and in our time by Henry II., who, unfortunately for France, was killed at the justs he made in honour of his daughter's marriage. It was, in fact, very common for some of the combatants to be beat or thrown from their horses, trampled upon, and killed upon the spot or hurt most grievously. Indeed, a tournament at this period was rarely finished without some disastrous accident; and it was an established law, that if any one of the combatants killed or wounded another he should be indemnified, which made them less careful respecting the consequences, especially when any advantage gave them an opportunity of securing the conquest. Tournaments were consequently interdicted by the ecclesiastical decrees.”—(See Fauchet's *Origines des Chevaliers.*)

The following quotation from an ancient manuscript romance, in the Harleian collection, entitled *Ipomydon*, plainly indicates that tournaments took place in an open field; and also that great numbers of the combatants were

engaged at one time, promiscuously encountering each other. We learn, moreover, that the champion who remained unhorsed at the conclusion of the sports, besides the honour he attained, sometimes received a pecuniary reward :—

The kynghis sounce a knyght gan make,  
 And many another for his sake ;  
 Justes were cryed ladyes to see,  
 Thedyr came lordes grete plente.  
 Tournementis atyred in the felde,  
 A thousand armed with spere and shelde ;  
 Knyghtis began togedre to ryde,  
 Some were unhorsyd on every side,  
 Ipomydon that daye was victorious,  
 And there he gaff many a cours ;  
 For there was none that he mette,  
 But he hys spere on hym woulde sette:  
 Then after within a lytell stounde,  
 Horse and man both went to grounde.  
*The Heraudes gaff the child the gree*  
*A thousand pounds he had to fee,*  
 Mynstrellys had giftes of golde  
 And fourty dayes this fest was holde.

In some instances the champions depended upon their military skill and horsemanship, and frequently upon their bodily strength ; but at all times it was highly disgraceful to be unhorsed, by whatever exertion it might be effected.

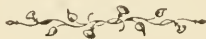
Thomas of Walsingham, Hist. Ang. A.D. 1274, tells us that when Edward I. returned from Palestine to England, and was on his passage through Savoy, the Comes

Kabilanensis, Earl of Chabloun, invited him to a tournament, in which himself and many other knights were engaged. The king, with his followers, although fatigued with the length of their journey, accepted the challenge. On the day appointed both parties met, and, being armed with swords, the engagement commenced. The earl singled out the king, and on his approach, throwing away his sword, cast his arms about the neck of the monarch, and used his utmost endeavour to pull him from his horse. Edward, on the other hand, finding the earl would not quit his hold, put spurs to his horse and drew him from his saddle, hanging upon his neck, and then shaking him violently, threw him to the ground. The earl having recovered himself and being remounted, attacked the king a second time, but finding his hand "too heavy," he gave up the contest and acknowledged him to be the conqueror. The knights of the earl's party were angry when they saw their leader drawn from his horse, and ran upon the English with so much violence, that the pastime assumed the tumultuous appearance of a real battle, the English on their side repelled force by force, and had not the resignation of the earl put an end to the conflict, in all probability the consequences would have been very serious.

A word or two here on the subject of lists and barriers used as the necessary concomitants of tournaments may not be out of place, but some time elapsed after the establishment of justs and tournaments before the combatants thought of constructing these. They contented themselves, says Menestrier ("Tracte de Tournois"), with being

stationed at four angles of an open place, whence they ran in parties one against another. There were cords stretched before the different companies, previous to the commencement of the tournaments, as we learn from the following passage in an old English romance to be found among the Harleian manuscripts. No. 326. "All these  
 " thinges doune thei were embatailed eche ageynste the  
 " other, and the corde drawn before eche partie, and  
 " when the tyme was, the cordes were cutt, and the trum-  
 " pettes blew up for every man to do his devoir, *duty*.  
 " And for to assertayne the more of the tourney, there  
 " was on eche side a stake, and at eche stake two kyngs  
 " of arms, with penne, and inke, and paper, to write the  
 " names of all them that were yolden, for they should no  
 " more tourney."

As these pastimes were accompanied with much danger, they invented in France the double lists, where the knights might run from the one side to the other without coming in contact, except with their lances. Other nations followed the examples of the French, and the usage of lists and barriers soon became universal.

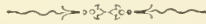


CHAPTER XIII.

Tournaments in England.



CHAPTER XIII.  
TOURNAMENTS IN ENGLAND.



I PROPOSE to dedicate this chapter to the subject of the tournament in our own country, and here again Strutt must be my guide, and his works the source of much of my information.

That tournaments were held in France and Normandy before the Conquest seems tolerably clear; but, according to our own writers, they were not permitted in this country for upwards of sixty years after that event. "The manner of performing the tournament, as then used," says Lambarde, in his "Perambulation of Kent," p. 492, "not being at the tilt, as I think, but at random and in the open field, was accounted so dangerous to the persons having to do therein, that sundry popes forbad it by decree; and the kings of this realm, before King Stephen, would not suffer it to be frequented within their land, so that such as for exercise of this feat of arms were desirous to prove themselves, were driven to pass over the seas, and to perform it in some different place in a foreign country." However, in the reign of King Stephen, the rigour of the laws was much relaxed, and tournaments, to a certain extent and with certain limitations, were permitted. They were, however, again suppressed by Henry II., and probably that is the reason why the young King Henry, son of Henry II., went every third year, as

Matthew Paris (A.D. 1179) says he did, over the seas, and expended vast sums of money "in conflictibus Gallicis," French combats, or tournaments.

But Richard I. having, it is said, observed that the French, practising frequently in the tournaments, were more expert in the use of their arms than the English, permitted his own knights to establish similar sports in his own dominions; but at the same time he imposed a tax, according to their quality, upon such as engaged in them. An earl was subjected to the fine of twenty marks for his privilege to enter the field as a combatant, a baron ten, a knight having a landed estate four, and a knight without such possession two; but all foreigners were excluded. He appointed five places for the holding of tournaments in England, namely, between Sarum and Wilton, between Warwick and Kenilworth, between Stamford and Wallingford, between Brakely and Mixberge, and between Blie and Tykehill.

The act, which to a certain extent legalized tournaments, specifies that the peace should not be broken thereby, nor justice hindered, nor damage done to the royal forests.—(Harl. MS. 69.)

How long these fines or fees continued to be collected does not appear, but tournaments were occasionally held with much "display of magnificence" in the succeeding reigns, being not only sanctioned by royal authority, but frequently instituted at the royal command, until the conclusion of the sixteenth century.

From that period they declined rapidly, and fifty years afterwards had entirely fallen into disuse.



The proviso that "the peace should not be broken" is curious; for, as I have previously stated, tournaments as practised when legal, could not in these days be held without what we call "a breach of the peace," and for that very reason would now be illegal.

"All military men," says Fauchet, in his "Origines des Chevaliers," "who bore the title of knights or esquires, were not indiscriminately received at tournaments. There were certain laws to which those who presented themselves became subject, and which they swore to obey before they were permitted to enter the lists."

In one of the Harleian manuscripts (No. 69), we meet with the following ordinance for the conducting of justs and tournaments according to the ancient establishment. A proclamation was to be previously made, which is couched in these terms: "Be it known (or more correctly *oyez*, now corrupted into *oh, yes!*), lords, knights, and esquires, ladies and gentlemen, you are hereby acquainted that a superb achievement at arms and a grand and noble tournament will be held in the parade of Clarencieux, king-at-arms, on the part of the most noble baron Lord of T. C. B., and on the part of the most noble baron the Lord of C. B. D., in the parade of Norrais, king-at-arms."

The regulations that follow are these: The two barons on whose parts the tournament is undertaken "shall be at their lodges (pavilions) two days before the commencement of the sports, when each of them shall cause his arms to be attached to his pavilion, and set up his banner in the front of his parade; and all those who wish to be

“ admitted as combatants on either side must in like man-  
“ ner set up their arms and banners before the parades  
“ allotted to them. Upon the evening of the same day  
“ they shall show themselves in their stations and expose  
“ their helmets to view at the windows of their pavilions ;  
“ and then they may depart to make merry, dance, and  
“ live well. On the morrow the champions shall beat  
“ their parade by the hour of ten in the morning to await  
“ the commands of the lord of the parade and the governor,  
“ who are the speakers of the tournament. At this meet-  
“ ing the prizes of honour shall be determined as thus :  
“ Who shall best resist the strokes of his adversary and  
“ return them with most adroitness on the party of Claren-  
“ cieux shall receive a very rich sword ; and he who shall  
“ perform in like manner the best on the part of Norroys  
“ shall be rewarded with a helmet equally valuable.”

“ On the morning of the day appointed for the tourna-  
“ ment the arms, banners, and helmets of all the combat-  
“ ants shall be exposed at their stations, and the speakers  
“ present at the place of combat by ten of the clock, where  
“ they shall examine the arms and approve or reject them  
“ at their pleasure. The examination being finished and  
“ the arms returned to their owners, the baron who is the  
“ challenger shall then cause his banner to be placed at  
“ the beginning of the parade, and the blazon of his arms  
“ to be nailed to the roof of the pavilion ; his example is  
“ to be followed by the baron on the opposite side, and all  
“ the knights of their party who are not in their stations  
“ before the nailing up of the arms shall forfeit their pri-  
“ vileges, and not be permitted to tourney. The king-

“ at-arms and the heralds are then commanded by the  
 “ speakers to go from pavilion to pavilion crying aloud,  
 “ ‘ To achievement, knights and esquires, to achievement!’  
 “ the notice for them to arm themselves; and soon after-  
 “ wards the company of heralds shall repeat the former  
 “ ceremony, having the same authority, saying, ‘ Come  
 “ ‘ forth, knights and esquires, come forth;’ and when the  
 “ two barons have taken their places in the lists, each of  
 “ them facing his own parade or ground, the champions  
 “ on both sides shall arrange themselves, every one by the  
 “ side of his banner; and then two cords shall be stretched  
 “ between them, and remain in that position until it shall  
 “ please the speakers to command the commencement of  
 “ the sports. The combatants shall each of them be  
 “ armed with a pointless sword, having the edges rebated,  
 “ and with a baston or truncheon hanging from their  
 “ saddles, and they may use either the one or the other so  
 “ long as the speakers shall give them permission, by re-  
 “ peating the sentence, ‘ Laissez les aller’—Let them go  
 “ on. After they have sufficiently performed their exer-  
 “ cises, the speakers are to call to the heralds, *ployer vos*  
 “ *baniers*, fold up your banners, which is the signal for  
 “ the conclusion of the movement. The banners being  
 “ rolled up, the knights and the squires are permitted to  
 “ return to their dwellings.”

Every knight or esquire performing in the tournament  
 was permitted to have one page, armed, within the lists,  
 to wait upon him and give him sword or truncheon, as  
 occasion may require; and also in case of any accident  
 happening to his armour, to amend the same. In after

times, and I am here alluding to the very early days of tournaments, three servitors were allowed for this purpose.

The laws of the tournament permitted any one of the combatants to unhelm himself at pleasure if he was incommoded by the heat; none being suffered to assault him in any way until he had replaced his helmet at the command of the "speakers."

The kings-at-arms and the heralds who proclaimed the tournament, had the privilege of wearing the blazon of arms of those by whom the sport was instituted, besides which they were entitled to six ells of scarlet cloth as their fee, and had all their expenses defrayed during the continuance of the tournament; also by the law of arms they had a right to the helmet of every knight when he made his first essay at the tournament, which became their perquisite as soon as the sports were concluded; they also claimed every one of them six crowns as nail money, for affixing the blazon of arms to the pavilions. The kings-at-arms held the banners of the two chief barons on the day of the tournament, and the other heralds the banners of their confederates according to their rank.

When tournaments became as it were naturalized in England, an Act was passed in the reign of Henry IV., containing the following regulations relative to their conduct, which regulations were said to have been established at the request of all the nobility of England.

Here let me remark, that in those very early days the acts passed were so few and so short that I have seen no

reason for referring to them by chapter and section, as they may be easily found in the statutes at large without any special indication from my pen.

The Act of Henry IV. prohibits any combatant from entering the lists with more than three esquires to bear his arms, and wait upon him for that day; and it further enacts that, "If any of the great lords, or others, 'tient  
 " 'mangerie,' that is, keep a public table, for eating or the  
 " supply of food, they shall not be allowed any additional  
 " esquires, excepting those who 'trencheront,' or carve for  
 " them." It further specifies that no knight or squire, who was appointed to attend in the lists as a servitor, should wear a sword or a dagger, or carry a truncheon, or any other weapon, excepting a large sword used in the tournament, and that all the combatants who bore lances should be armed with breast-plates, thigh-pieces, shoulder-pieces, and bacinets, without any other kind of armour.

No earl, baron, or knight, might presume to infringe upon the regulations of this statute, under the forfeiture of his horse and his arms, and the pain of imprisonment for a certain space of time, at the pleasure of the governors of the tournament.

Another clause which probably refers to such as were not combatants for the day, runs thus: "No one except  
 " the great body, that is to say, earls or barons, shall be  
 " armed otherwise than as above expressed; nor bear a  
 " sword, pointed knife, mace, or other weapon except the  
 " sword for the tournament." In case of transgression, he forfeited his horse, and was liable to imprisonment for one year. If an esquire transgressed the law, he not only lost

his horse and his arms, but was sent to prison for three years. But if the knights or esquires in the above cases were possessed of lands, and appeared in arms for the service of their lords, it seems they might recover their horses.

The "Roys des harnoys," kings-at-arms, the heralds, and the minstrels, were commanded not to wear any kind of sharp weapons, but to have the swords without points which belonged to them.

Those who came as spectators on horseback were strictly forbidden to be armed with any kind of armour, or to bear offensive weapons, under the penalty that was appointed to the esquires: and no boy or man on foot, coming for the same purpose, might appear with a sword, dagger, cudgel, or lance; they were to be punished with one year's imprisonment in case of disobedience to the statute. (For further information on this curious lore, see the Harl. MS. 69.)

I need scarcely say that tournaments so long as they were practised as games or pastimes were comparatively unattended with danger to life or limb. So much cannot be said of ordeal combats. However, the lists seem to have been very similar in their constitution, and the rules established by Thomas, Duke of Gloucester, uncle to Richard II., were as follows: "The king shall find the field to fight in, and the list shall be made and devised by the constable; and it is to be observed, that the list must be sixty paces long and forty paces broad, set up in good order, and the ground within hard, stable, and level, without any great stones or other impediments; also that the

lists must be with one door to the east, and another to the west, and strongly barred about with good bars seven feet high or more, so that a horse may not be able to leap over them.”—(Cotton MS. NERO: D. vi. and Harl. MS. 69.)

By way of conclusion to this chapter I may be excused for touching shortly on the “respect paid to ladies in the tournament.” After the conclusion of the tournament, the combatants, as we have seen above, return to their dwellings; but in the evening they met again in some place appropriated for the purpose, where they were joined by the ladies, and others of the nobility who had been spectators of the sports; and the time, we are told, was passed “in feasting, dancing, singing, and making merry. But, after the noble supper and dancing, the speakers of the tournament called together the heralds appointed on both parties, and demanded from them alternately the names of those who had best performed upon the opposite sides; the double list of names was then presented to the ladies who had been present at the pastime, and the decision was referred to them respecting the awardment of the prizes; who selected one name for each party, and, as a peculiar mark of their esteem, the favourite champions received the rewards of their merits from the hands of two young virgins of quality.”—(Encyclop. Fran., *in voce* TOURNOI.)

The statutes and ordinances for justs and tournaments made by John Tiptoft, Earl of Worcester, at the command of Edward IV., in the sixth year of his reign, concludes thus—“Reserving always to the queen’s highness and the ladies there present, the attribution and gift of the prize,



after the manner and forme accustomed.”—(Harl. MS. No. 69.)

But this was not the only deference that was paid to the fair sex by the laws of the tournament, for we are told that “if a knight conducted himself with any impropriety, or transgressed the ordinances of the sport, he was excluded from the lists with a sound beating, which was liberally bestowed upon him by the other knights with their truncheons, and to punish his temerity and to teach him to respect the honour of the ladies and the rights of chivalry; the unfortunate culprit had no other resource in such case for escaping without mischief, but by supplicating the mercy of the fair sex, and humbly intreating them to interpose their authority on his behalf, because the suspension of his punishment depended entirely upon their intercession.”





CHAPTER XIV.

Of Justs or Joustes.



CHAPTER XIV.  
OF JUSTS OR JOUSTES.



JUSTS, joustes, and tournaments have been and are considered by those who have really not thought about the matter identical in their nature. I however find that when in vogue justs were always ranked as inferior to tournaments. The just or lance game, termed in the Latin of the day *justa*, and in French *jouste*, was originally a sort of sportive combat, undertaken for pastime only, differing materially, as before observed, from the tournament. The former was often included in the latter, and usually took place when the grand conflict was finished. But at the same time it was perfectly consistent with the rules of chivalry for the justs to be held separately: it was, however, considered inferior to the tournament. As a proof of this proposition, a knight, who had paid his fees for permission to just, was not thereby exempted from the fees of the tournament; but, on the contrary, if he had discharged his duties (in other words paid his fees) at the tournament, he was privileged to just without any further demand. This distinction seems to have arisen from the weapons used, the sword being allowed as well as the lance in the tournament, and the lance alone in the just.

In an old document, cited by Du Cange, I find the following passage, "When a nobleman makes his first appearance

“ in the tournament, his helmet is claimed by the heralds,  
 “ notwithstanding his having justed before, because the  
 “ lance cannot give the freedom of the sword, which the  
 “ sword can do of the lance; for it is to be observed, that  
 “ he who has paid his helmet at the tournament is freed  
 “ from the payment of a second helmet at the just; but  
 “ the helmet paid at justing does not exclude the claim  
 “ of the heralds when a knight first enters the lists at the  
 “ tournament.”

Marvellously quaint were the arguments and deductions of our ancestors, and no wonder that posterity clings to the memory of what are termed the “good old times.”

Strutt traces the pastime of joustes to the days of King Arthur of blessed memory. He says “The just, as a military  
 “ pastime, is mentioned by William of Malmesbury, and  
 “ said to have been practised in the reign of King Stephen.  
 “ (Pugnas facere quod Justam vocant. Hist. Novellæ,  
 “ A.D. 1142.) During the reign of Henry III. the just  
 “ assumed a different appellation, and was also called the  
 “ round-table game. This name was derived from a fra-  
 “ ternity of knights who frequently justed with each other,  
 “ and accustomed themselves to eat together in one apart-  
 “ ment, and, in order to set aside all distinction of rank  
 “ or quality, seated themselves at a circular table, where  
 “ every place was equally honourable.”

Athenæus, cited by Du Cange, says, “The knights sat  
 “ round the table, *eorum scuta ferentes a tergo*, bearing  
 “ their shields at their backs, no doubt for safety sake.  
 “ Our historians attribute the institution of the round  
 “ table to Arthur, the son of Úter Pendragon, a celebrated

“British hero, whose achievements are so disguised with “legendary wonders that it has been doubted if such a “person ever existed in reality.”

Since the publication of “The Idylls of the King,” who, having a grain of poetry or chivalrous feeling in his composition, can entertain a doubt that Arthur, the Arthur of Tennyson, existed, flourished and was borne away to some remote spot, once more to appear when the exigencies of a degenerate time require his interference?

Without going too deeply into the question never to be solved, whether or no King Arthur is a fabulous personage, it is certain that in the eighth year of the reign of Edward I., Roger De Mortimer, a nobleman of great opulence, established a round table at Kenilworth, for the encouragement of military pastimes, where one hundred knights, with as many ladies, were entertained at his expense. The fame of this institution occasioned a great influx of foreigners, who came either to initiate themselves or to make some public proof of their prowess. About seventy years afterwards Edward III. erected a splendid table of the same kind at Windsor, but upon a more extensive scale. It contained the area of a circle two hundred feet in diameter, and the weekly expense for the maintenance of this table, when it was first established, amounted to one hundred pounds, which afterwards was reduced to twenty pounds, on account of the large sums of money required for the prosecution of the war with France. This receptacle for military men gave continual occasion for the exercise of arms, and afforded to the young nobility an opportunity of learning, by the way of pastime, all the

requisites of a soldier. The example of King Edward was followed by Philip of Valois, King of France, who also instituted a round table at his court, and by that means drew thither many German and Italian knights who were coming to England. (Walsingham, A.D. 1344.) The contest between the two monarchs seems to have had the effect of destroying the establishment of the round table in both kingdoms, for after this period we hear no more concerning it.

Strutt says, that in England the round table was succeeded by the Order of the Garter, the ceremonial parts of which order are, he says, "retained to this day, but the "spirit of the institution ill accords with the present "manners." It seems pretty clear that when the institution of the round table was abolished, little or no alteration took place in the mode of carrying out jousts, or in the forms and ceremonies observed by the knights belonging to it. These continued in force so long as jousts were practised, which form of tilting eventually seems to have superseded tournaments, a fact by no means wonderful, when we recollect that the one was a confused engagement of many knights together and the other a succession of combats between two only at one time, which gave them all an equal opportunity of showing individually their dexterity and attracting the general notice.

In the jousts the combatants most commonly used spears without heads of iron, and the excellency of the performance consisted in striking the opponent upon the front of his helmet, so as to beat him backwards from his horse or break the spear. Froissart mentions a trick used by

Reynaud de Roye at a tilting match between him and John de Holland. He fastened his helmet so slightly upon his head that it gave way, and was beaten off by every stroke that was made upon the vizor with the lance of John of Holland, and of course the shock he received was not so great as it would have been had he made the helmet fast to his cuirass; this artifice was objected to by the English on the part of Holland, but John of Gaunt, Duke of Lancaster, who was present, "permitted Roye to use his pleasure, though he at the same time declared that for his part he should prefer a contrary practice, and have his helmet fastened as strongly as possible."

The same historian, speaking of a justing between Thomas Harpington and Sir John de Barres, says, "As methought the usage was thanne, their helmes wer tied but with a lace, to the entente the spere should take no hold;" by which it seems the trick being appreciated soon became no longer a secret artifice. As in tournaments so also in jousts, but for obvious reasons especially in the latter, what was called the "Honour of the ladies" was the great moving power or force.

We have seen that the privilege of distributing the prizes and remitting the punishment of offenders, was by the laws of the tournament entrusted to the fair sex, but at the justs their authority was much more extensive.

In the days of chivalry the justs were usually made in honour of the ladies, who presided as judges paramount over the sports, and their determinations were in all cases decisive; hence in the spirit of romance arose the necessity for every "true knight" to have a favourite fair one, who

was not only held up by him as the paragon of beauty and of virtue, but supplied the place of a tutelar saint, to whom he paid his vows and addressed himself in the day of peril; or it seems to have been an established doctrine, that love made valour perfect, and incited the heroes to undertake great enterprizes. "Oh that my lady saw me," said one of them as he was mounting a breach at the head of his men, and driving the enemy before him. St. Foix, who mentions this (*Essais sur Paris*, Vol. 3, p. 263), says in another place, "It is astonishing that no author has marked the origin of this devotion in the manners of the Germans, our ancestors, as drawn by Tacitus, who," he tells us, "attributed somewhat of divinity to the fair sex."

Sometimes it seems the knights were armed and unarmed by the ladies, but this must have been a peculiar mark of their favour, and only used upon particular occasions, as, for instance, when the knight undertook some particular achievement on their behalf, or fought in defence of their beauty or their honour, or in vindication of some slur, real or imaginary, cast upon them by his opponent. "As the ladies, say some modern authors, were *l'ame*, the soul of the justs, it was proper that they should be therein distinguished by some peculiar homage; and accordingly, at the termination of a just with lances, the last course was made in honour of the sex, and called the lance of the ladies. The same deference was paid to them in single combats with the sword, the axe, and the dagger."—(*Encyclopedie Française*, Article "Joute.")



Both at tournaments and at justs there was a great display of jewels and dresses, and although the innate fondness of the ladies for gorgeous garments and general splendour of decoration no doubt prevailed in the so-called days of chivalry, as most assuredly it does in our degenerate times, yet the dames and demoiselles of the past had the delight of seeing those near and dear to them in danger of losing life or limb, an addition to their pleasure which the ladies of our period are unhappily deprived of.

At the celebration of these pastimes, the lists were superbly decorated, and surrounded by the pavilions belonging to the champions, ornamented with their arms, banners, and banerolls. The scaffolds for the reception of the nobility of both sexes who came as spectators, and those especially appointed for the royal family, were hung with tapestry and embroideries of gold and silver. Every person, upon such occasions, appeared to the greatest advantage, decked in sumptuous array, and every part of the field presented to the eye a rich display of magnificence. The appearance of the knights engaged in the sports was very splendid, they and their horses were most gorgeously arrayed, and their esquires and pages, together with the minstrels and heralds who superintended the ceremonies, were all of them clothed in glittering and costly apparel. Such a show of pomp, where wealth, beauty, and grandeur were concentrated as it were in one focus, must altogether have formed a wonderful spectacle, and made a strong impression on the mind, which impression no doubt was not a little heightened by the cries of the heralds, the

clangour of the trumpets, the clashing of the arms, the rushing together of the combatants, and the shouts of the beholders; and hence the popularity of these exhibitions may be easily accounted for.

The tournament and the just, and especially the latter, afforded to those who were engaged in them an opportunity of appearing before the ladies to the greatest advantage; they might at once display their taste and opulence by the costliness and elegance of their apparel and their prowess as warriors; therefore these pastimes became fashionable among the nobility, and it was probably for this very reason that they were prohibited to the commoners.

On the subject of tournaments and jousts much quaint information may be derived from the Harleian Manuscripts. By way of specimens I select the following extracts (Harl. MSS., No. 69):—"Six gentlemen challenged  
" all comers at the just roiale, to run in josting harnies  
" along a tilte, and to strike thirteen strokes with swordes  
" in honour of the marriage of Richard, duke of York,  
" son to King Edward 4, (who is said to have lost his life  
" with his brother Edward in the Tower,) with the lady  
" Anne, daughter to the duke of Norfolk."

The next runs thus:—"When Henry the 7th created  
" his second son Henry Prince of Wales, four gentlemen  
" offered their service upon the occasion. First, they had  
" a declaration that they do not undertake this enterprise  
" in any manner of presumption, but only for the laude  
" and honour of the feaste, the pleasure of the ladyes, and  
" their owne learning and exercise of deeds of arms, and to  
" ensewe the ancient laudable customs. They then pro-

“ mised to be ready at Westminster on a given day, the  
 “ twenty-fourth of November, to keep the justs in a place  
 “ appointed for that purpose by the king. To be there by  
 “ eleven of the clock before noon to answer all gentlemen  
 “ commers and to run with every commer one after another  
 “ six courses ensewingly, and to continue that day as long  
 “ as it shal like the kinge’s grace, and to tilt with such  
 “ speares as he shall ordeyn, of the which speares the  
 “ commers shall have the choise ; but if the said six courses  
 “ by every one of the commers shall be performed, and the  
 “ day not spent in pleasure and sport according to the  
 “ effect of these articles, it shall then be lawful for the said  
 “ commers to begin six other courses, and so continue one  
 “ after another as long as it shall be at the king’s pleasure.  
 “ If it shall happen to any gentleman that his horse  
 “ fayleth him, or himself be unarmed in such wise as  
 “ he cannot conveniently accomplish the whole courses,  
 “ then it shall be lawful for his felowe to finish up the  
 “ courses.”

They promise upon a second day, the twenty-ninth of  
 November, to be in readiness to mount their horses, at the  
 same place and hour as before, to tourney with four other  
 gentlemen, with such swordes as the king shall ordain,  
 until eighteen strokes be given by one of them to the other ;  
 and add that “ it shall be lawful to strike all manner of  
 “ ways, the foyné only excepted, and the commers shall  
 “ have the choice of the swords.”

I may here explain that “ to foyné ” means to thrust or  
 “ give point,” and the author of a MS. poem, in the  
 Cotton Collection (Titus A. 23, part 1, fol. 7), entitled

“Knyghtode and Batayle,” says, in fighting with an enemy, “to foyne is better than to smyte. Two inches, ‘entre  
“‘foyned,’ hurteth more than a broader wound with the  
“edge of the sword.”

“Whosoever,” continues the Harleian Manuscript, “shall  
“certifye and give knowledge of his name and of his com-  
“ming to one of the three kings of arms, whether it be to  
“the justs or to the tourney, he shall be first answered,  
“the stakes alwayes reserved, which shall have the pre-  
“heminance. If any one of the said commers shall think  
“the swordes or spears be too easy for him, the said four  
“gentlemen will be redye to answer him or them, after  
“their owne minde, the king’s licence obteyned in that  
“behalf.”

The gentlemen then entreat the king to sign the articles with his own hand, as sufficient licence for the heralds to publish the same in such places as might be thought requisite. The king accepted the offer, and granted their petition; at the same time he promised to reward the best performer at the justs royal with a ring of gold set with a ruby; and the best performer at the tournament with another golden ring set with a diamond, equal in value to the former.

Upon some particular occasions the strokes with the sword were performed on foot, and so were the combats with the axes; the champions having, generally, a barrier of wood, breast-high, between them.

I have now, I think, given my readers as much information on the subject of tournaments, tournays, joustes, justs, and jousting, as they will be able to assimilate.

There is little reason to doubt that these games, sports, pastimes, call them what you please, were practised chiefly on the occasions of royal marriages, coronations and so forth, and that in early days they were far more dangerous in their nature than they subsequently became. Towards the close of the 15th century they were mere ceremonies and pageants, affording an opportunity for the display of pomp and gorgeous dresses and costumes; but about that period decline they did, and very soon sank into disuse, and became dull and lifeless as the danger and violence with which they were carried on decreased. Sentimentalists will say chivalry died out, I say “and a good thing too.”

Such of my readers as wish to elaborate for themselves my outlines, have only to consult the pages of Stow, Hollinshed, Hall, Grafton, and above every author Froissart, and they will there find all the information which they can possibly desire on the subject.

With reference to the law of the matter, I can only advise those who take a part in such pastimes to use no dangerous weapons, and not to lose their temper, otherwise a breach of the peace is very likely to ensue. As, however, in these days we do not require impossibilities, I think I may safely predict that tournaments and jousts have had their day. *Requiescant in pace* with the heroes who fell in the good old days of chivalry.





## CHAPTER XV.

Of Combats with the Sword and Buckler, the  
Sword and Dagger, the Rapier, and other  
Dangerous Weapons.





## CHAPTER XV.

### OF COMBATS WITH THE SWORD AND BUCKLER, THE SWORD AND DAGGER, THE RAPIER, AND OTHER DANGEROUS WEAPONS.

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I NOW come to sword and buckler playing, sword and dagger, and other games and amusements involving violence, and possibly consequent danger to the life or limb of those engaged in such sports.

This subject, so far as the legal aspect of these games is concerned, may be dismissed with but few remarks. The question of legality or illegality now depends upon the amount of violence used in these combats, and the intrinsic danger involved in the reckless manipulation of weapons likely to inflict serious injury if wielded with vigour by men actuated with a wish to conquer in the strife. No doubt, in early times, the good old days, as they are termed, of chivalry, a sword fight, especially under certain circumstances, was a *duel à mort*, but now-a-days, if such a contest exceeded the bounds of safety, it would be utterly illegal.

Sword playing was originally a pastime presented for the amusement of lords and ladies, by professional combatants, gleemen, “jongleurs,” and others, who during and

before the middle ages were celebrated for their skill in this and other similar pastimes. The performers, for obvious reasons, were by the early historians called "Gladiatores." John of Salisbury speaks—(Book 1, cap. 8, page 34) of *Mimi, Salii, Balatrones, Gladiatores, et tota jaculatorum copia*.

These "gladiatores" seem to have set up schools for teaching the art of defence in various parts of the kingdom, and especially in the city of London, where the conduct of the masters and their scholars became so outrageous that it was necessary for the legislature to interfere, and in the fourteenth year of the reign of Edward I., A.D. 1286, an edict was published by Royal authority, which prohibited the keeping of such schools and the public exercise of swords and bucklers, "eskermir au bokeler."

It is said that many robberies and murders were committed by these gladiators, hence the appellation of swash buckler, a term of reproach, "from swashing," says Fuller, "and making a noise on the buckler; and ruffian, which is the same as swaggerer. West Smithfield was formerly called Ruffian Hall, where such men usually met, casually or otherwise, to try masteries with sword and buckler. More were frightened than hurt, hurt than killed therewith, it being accounted unmanly to strike beneath the knee. But since that desperate traitor, Rowland Yorke, first used thrusting with rapiers, swords and bucklers are disused." (Worthies of England A.D. 1662.) Jonson, in the introduction to his play called "Bartholomew Fair," speaks of "the sword and buckler age in Smithfield;" and again, in the "Two Angry

Women of Abbington," a comedy by Henry Porter, printed in 1599, we have the following observation:—  
 "Sword and buckler fight begins to grow out of use;  
 "I am sorry for it; I shall never see good manhood again;  
 "if it be once gone, this poking fight of rapier and dagger  
 "will come up; then a tall man, that is, a courageous  
 "man and a good sword and buckler man, will be spitted  
 "like a cat or rabbit."

Such exercises as those above referred to had been practised by day and by night to the great annoyance of the peaceable inhabitants of the city; and by the statute of Edward I. the offenders were subject to the punishment of imprisonment for forty days, to which was afterwards added a mulct of forty marks. (Maitland's "History of London," book 1, chap. 11.) These restrictions certainly admitted of some exceptions, for it is well known that there were seminaries in London wherein youth were taught the use of arms, held publicly after the institution of this ordinance. "The art of defence and use of weapons," says Stow, "is taught by professed masters," ("Survey of London," chap. 2,) but these most probably were licensed by the city governors and under their control. The author of a description of the colleges and schools in and about London, which he calls "The Third University of England," printed in black letter in 1615, says:—"In this city," meaning London, "there be manie professors of the science of defence, "and very skilful men in teaching the best and most "offensive and defensive use of verie many weapons, as of "the long sword, back-sword, rapier and dagger, single

“ rapier, the case of rapiers, the sword and buckler or  
“ targate, the pike, the halberd, the long staff and others.  
“ Henry VIII. made the professors of this art a company,  
“ or corporation, by letters-patent, wherein the art is  
“ intituled ‘ The Noble Science of Defence.’ The manner  
“ of the proceeding of our fencers in their schools is this—  
“ first, they which desire to be taught at their admission  
“ are called scholars, and, as they profit, they take degrees,  
“ and proceed to be provosts of defence, and that must be  
“ wonne by public trial of their proficiencie and of their  
“ skill at certain weapons, which they call prizes, and in  
“ the presence and view of many hundreds of people ; and  
“ at their next and last prize well and sufficiently performed  
“ they do proceed to be maisters of the science of defence,  
“ or maisters of fence, as we commonly call them.” The  
king ordained, “ That none but such as have thus orderly  
“ proceeded by public act and trial, and have the approba-  
“ tion of the principal masters of the company, may profess  
“ or teach this art of defence publicly in any part of Eng-  
“ land.” Stow informs us that the young Londoners, on  
holydays after the evening prayer, were permitted to exer-  
cise themselves with their wasters and bucklers before their  
masters’ doors. They, however, seem to have used clubs  
or bludgeons instead of swords. (See Bodleian MS.,  
A.D. 1344, No. 264.)

A few remarks on the games of sword playing, and the  
manner in which they were practised, may prove interest-  
ing to my readers, and, firstly, I will take the sword and  
buckler game, the former, viz., the sword, being, as I ap-  
prehend, the same as what is termed the backsword.

This contest or game was of course played, as the name denotes, with swords, probably not very sharp, and that only on one edge or side, and bucklers or shields for the purpose of warding off serious blows. Of this we may be tolerably sure, that it was not a very dangerous sport, especially when played by experienced performers. I find in *Hudibras* (Part 1, canto 3, line 1361; vol. 1, page 282, of a very good edition which I possess), the following couplet:—

“For as in sword and buckler fight,  
All blows do on the target light.”

Shakspeare seems to have been of this opinion, for he puts into Hotspur's mouth the following passage:—

“All studies here I solemnly defy,  
Save how to pinch and gall this Bolingbroke,  
And that same sword-and-buckler Princee of Wales.”

This is the only allusion to sword and buckler play which I can find in Shakspeare's works. It occurs in the play of “*King Henry the Fourth*,” part 1, act 1, scene 3; and my notion that this was a comparatively safe mode of fighting is confirmed by Fuller's suggestion that the players with sword and buckler rather terrified than hurt each other.

Some light is thrown upon the subject of contests with sword and shield, target or buckler, by the annotator of Scott's “*Lady of the Lake*,” in the 5th canto of which poem the following passage occurs:—

“Ill fared it then with Roderick Dhu,  
That on the field his targe he threw,  
Whose brazen studs and tough bull-hide  
Had death so often dash'd aside.

For, train'd abroad his arms to wield,  
 " Fitz-James's blade was sword and shield.  
 He practised every pass and ward,  
 To thrust, to strike, to feint, to guard."

From the note to this quotation, it seems that the shield, targe, or buckler was a round target of light wood covered with thong leather studded with brass or iron, and that it was a necessary equipment of a fighting Highlander. In charging regular troops they received the thrust of the bayonet on this buckler, twisted it aside, and used their broadsword against the encumbered soldier.

I find from Grose's "Military Antiquities," vol. 1, p. 164, that in 1745 most of the front rank of the clans were armed with bucklers, and in 1747 the privates of the 42nd regiment in Flanders were for the most part permitted to carry targets. In certain verses published by Dr. Barrett, there occurs a humorous account of an encounter between a Highlander and a Frenchman, each using his favourite weapons. It runs thus:—

" A Highlander once fought a Frenchman at Margate,  
 The weapon a rapier, a back sword, and target.  
 Brisk monsieur advanced as fast as he could,  
 But all his fine pushes were caught in the wood ;  
 And Sawney with back sword did slash him and nick him,  
 While t'other, enraged that he could not once prick him,  
 Cried ' Sirrah, you rascal, you son of a — ,  
 ' Me will fight you, begar, if you'll come from your door.'"

The buckler or target seems to have been in common use in the time of Queen Elizabeth in England, but the rapier was more popular on the continent; and if indeed

the sword and buckler was ever used to any great extent abroad, it was in very early times superseded by the rapier. It seems clear that our teachers of the noble science of self-defence with the weapons in vogue at different periods were either Italians or Frenchmen,—who made a great mystery of their art and mode of instruction, and never permitted any person to be present but the scholar who was to be taught. They even examined, previous to giving a lesson, closets, beds, and other places of possible concealment. Their lessons, as appears in Brantôme's "Discourse on Duels," often gave the most treacherous advantages, for the challenger having the choice of weapons frequently selected some strange or unusual arm, the use of which he practised under his instructor, and thus killed at his ease his antagonist, to whom the mode of combat was presented for the first time on the field of battle.

The name of the rapier or small sword seems to have been derived from the French word *rapière*, from the quickness of its motion when imparted by a clever performer. Johnson designates it as "a small sword, used "only in thrusting," and this definition is borne out by several passages to be found in this chapter, in which the superiority of a thrusting over a cutting weapon is alluded to, the former being said to be far more dangerous than the latter.

The term "rapier," as applied to a thrusting arm, is used by Shakspeare, ("King Richard the Second," act 4, scene 1:) "I will turn thy falsehood to thy heart, where it was forged, with my rapier's point." That the rapier was considered a dangerous weapon, when pitted against a



broad or back sword, or any mere “cutting and slashing” weapon, appears both from the authorities which I have already alluded to, and also from a passage in Pope’s “Essay on Homer’s Battles:” in which he states that “A soldier of far inferior strength may manage a *rapier* or *firearms* so expertly as to be an overmatch for his adversary.”

The bear-gardens were the usual places appointed by the masters of defence for public trials of skill. “These exhibitions,” says Strutt, “became outrageous to humanity, and only fitted for the amusement of ferocious minds;” he further remarks “that it is astonishing that they should have been frequented by females, for who could imagine that the slicing of the flesh from a man’s cheek, the scarifying of his arms, or laying the calves of his legs upon his heels, were spectacles calculated to delight the fair sex, or sufficiently attractive to command their presence?”

No doubt sword and buckler play was conducted at some period in such a way as to be illegal on account of the danger involved in the exercise. Perhaps it might not be so perilous to life as the rapier game, in which all was thrust and the point alone used, but sword play without the buckler must have been very dangerous and brutal; in proof of which suggestion I may be excused for giving an extract from *The Spectator*, or rather an abstract of one of the papers contained in that charming series of articles, which convey to our minds such admirable and correct notions of the manners and customs of the days in which they were published. Such sword



play as is described in the paper which I am about to transcribe savours more of modern prize fighting than of an innocent and harmless game, and most assuredly would, if conducted as described by "Mr. Spectator," be now utterly and entirely illegal—more illegal, if there be any degrees in illegality, than a prize fight, for the simple reason that weapons were used not furnished by nature; and the account would supply a thesis or text for a disquisition on the moot point, sword or fist. The article in *The Spectator* is dated Monday, July 21, and is to be found in the edition published by Tonson in 1749, vol. vi., p. 156, No. 436. It is headed by the well-known allusion to the custom amongst the Romans of turning down (or back) the thumb when the spectators of combats of gladiators wished that the fight should end by the death of one of the unfortunate men.

Verso pollice vulgi  
 Quemlibet occidunt populariter.

*Juvenal*, Sat. 3, v. 36.

Translated by Dryden—

"With thumbs bent back they popularly kill."

The paper in *The Spectator* runs thus:—

"Being a person of insatiable curiosity, I could not  
 "forbear going on Wednesday last to a place of no small  
 "renown for the gallantry of the lower order of Britons,  
 "namely, to the Bear Garden at Hockley-in-the-Hole,  
 "where (as a whitish-brown paper, put into my hands in  
 "the street, informed me) there was to be a trial of skill  
 "to be exhibited between two masters of the noble science

“ of defence, at two of the clock precisely. I was not a  
“ little charmed with the solemnity of the challenge,  
“ which ran thus: ‘I, James Miller, sergeant (lately come  
“ ‘ from the frontiers of Portugal), master of the noble  
“ ‘ science of defence, hearing in most places where I have  
“ ‘ been of the great fame of Timothy Buck, of London,  
“ ‘ master of the said science, do invite him to meet me,  
“ ‘ and exercise at the several weapons following, viz.:  
“ ‘ Back-sword, sword and dagger, sword and buckler,  
“ ‘ single falchon, case of falchons, quarter-staff.’ If the  
“ generous ardour in James Miller to dispute the reputa-  
“ tion of Timothy Buck had something resembling the old  
“ heroes of romance, Timothy Buck returned answer in the  
“ same paper with the like spirit, adding a little indigna-  
“ tion at being challenged, and seeming to condescend to  
“ fight James Miller, not in regard to Miller himself, but  
“ in that, as the fame went about, he had fought Parkes, of  
“ Coventry. The acceptance of the combat ran in these  
“ words: ‘I, Timothy Buck, of Clare Market, master of  
“ ‘ the noble science of defence, hearing he did fight  
“ ‘ Mr. Parkes, of Coventry, will not fail (God willing) to  
“ ‘ meet this fair inviter at the time and place appointed,  
“ ‘ desiring a clear stage and no favour. Vivat Regina.’  
“ I shall not here look back on the spectacles of the  
“ Greeks and Romans of this kind, but must believe this  
“ custom took its rise from the ages of knight-errantry;  
“ from those who lov’d one woman so well, that they hated  
“ all men and women else; from those who would fight  
“ you, whether you were or were not of their mind; from  
“ those who demanded the combat of their contemporaries,

“ both for admiring their mistress or discommending her.  
 “ I cannot, therefore, but lament that the terrible part of  
 “ the ancient fight is preserved, when the amorous side of  
 “ it is forgotten. We have retained the barbarity but lost  
 “ the gallantry of the old combatants. I could wish, me-  
 “ thinks, these gentlemen had consulted me in the promul-  
 “ gation of the conflict. I was obliged by a fair young  
 “ maid whom I understood to be called Elizabeth Preston,  
 “ daughter of the keeper of the garden, with a glass of  
 “ water, who I imagined might have been, for form’s sake,  
 “ the general representative of the lady fought for, and  
 “ from her beauty the proper Amarillis on these occasions.  
 “ It would have ran better in the challenge—‘ I, James  
 “ ‘ Miller, sergeant, who have travelled parts abroad, and  
 “ ‘ came last from the frontiers of Portugal, for the love of  
 “ ‘ Elizabeth Preston, do assert that the said Elizabeth is  
 “ ‘ the fairest of women.’ Then the answer—‘ I, Timothy  
 “ ‘ Buck, who have stay’d in Great Britain during all the  
 “ ‘ war in foreign parts, for the sake of Susanna Page, do  
 “ ‘ deny that Elizabeth Preston is so fair as the said  
 “ ‘ Susanna Page. Let Susanna Page look on, and I  
 “ ‘ desire of James Miller no favour.’

“ This would give the battle quite another turn; and a  
 “ proper station for the ladies whose complexion was dis-  
 “ puted by the sword, would animate the disputants with  
 “ a more gallant incentive than the expectation of money  
 “ from the spectators; though I would not have that neg-  
 “ lected, but thrown to that fair one whose lover was  
 “ approved by the donor.

“ Yet, considering the thing wants such amendments,

“ it was carried with great order. James Miller came on  
“ first, preceded by two disabled drummers, to show,  
“ I suppose, that the prospect of maimed bodies did not  
“ in the least deter him. There ascended with the daring  
“ Miller, a gentleman, whose name I could not learn, with  
“ a dogged air, as unsatisfied that he was not principal.  
“ This son of anger lowered at the whole assembly, and  
“ weighing himself as he march'd around from side to  
“ side, with a stiff knee and shoulder, he gave intimations  
“ of the purpose he smothered till he saw the issue of this  
“ encounter. Miller had a blue ribbon tied round the  
“ sword arm, which ornament I conceive to be the remains  
“ of that custom of wearing a mistress's favour on such  
“ occasions of old.

“ Miller is a man of six foot eight inches height, of  
“ a kind but bold aspect, well fashioned, and ready of his  
“ limbs, and such readiness, as spoke his ease in them, was  
“ obtained from a habit of motion in military exercise.

“ The expectation of the spectators was now almost at its  
“ height, and the crowd pressing in, several active persons  
“ thought they were placed rather according to their fortune  
“ than their merit, and took it in their heads to prefer them-  
“ selves from the open area or pit to the galleries. This  
“ dispute between desert and property brought many to the  
“ ground, and raised others in proportion to the highest  
“ seats by turns, for the space of ten minutes, till Timothy  
“ Buck came on, and the whole assembly giving up their  
“ disputes, turned their eyes upon the champions. Then it  
“ was that every man's affection turned to one or the other  
“ irresistibly. A judicious gentleman near me said, ‘I

“ ‘could, methinks, be Miller’s second, but I had rather  
“ ‘have Buck for mine.’ Miller had an audacious look  
“ that took the eye, Buck a perfect composure that engaged  
“ the judgment. Buck came on in a plain coat and kept  
“ all his air till the instant of engaging, at which time  
“ he undressed to his shirt, his arm adorned with a bandage  
“ of red ribbon.

“ No one can describe the sudden concern in the whole  
“ assembly ; the most tumultuous crowd in nature was as  
“ still and as much engaged as if all their lives depended  
“ on the first blow. The combatants met in the middle of  
“ the stage, and shaking hands as removing all malice,  
“ they retired with much grace to the extremities of it ;  
“ from whence they immediately faced about and ap-  
“ proached each other, Miller with a heart full of reso-  
“ lution, Buck with a watchful, untroubled countenance ;  
“ Buck regarding principally his own defence, Miller  
“ chiefly thoughtful of annoying his opponent.

“ It is not easy to describe the many escapes and im-  
“ perceptible defences between two men of quick eyes and  
“ ready limbs ; but Miller’s heat laid him open to the rebuke  
“ of the calm Buck, by a large cut on the forehead. Much  
“ effusion of blood covered his eyes in a moment, and the  
“ huzzas of the crowd undoubtedly quickened the anguish.  
“ The assembly was divided into parties upon their different  
“ ways of fighting ; while a poor nymph in one of the gal-  
“ leries apparently suffered for Miller, and burst into a flood  
“ of tears. As soon as his wound was wrapped up he came  
“ on again with a little rage, which still disabled him fur-  
“ ther. But what brave man can be wounded into more

“patience and caution? The next was a warm, eager  
 “onset, which ended in a decisive stroke on the left leg  
 “of Miller. The lady in the gallery, during this second  
 “strife, covered her face; and, for my part, I could not  
 “keep my thoughts from being mostly employed on the  
 “consideration of her unhappy circumstance that moment,  
 “hearing the clash of swords, and apprehending life or  
 “victory concerned her lover in every blow, but not daring  
 “to satisfy herself on whom they fell. The wound was  
 “exposed to the view of all who could delight in it, and  
 “sewed up on the stage. The surly second of Miller de-  
 “clared at this time that he would that day fortnight  
 “fight Mr. Buck at the same weapons, declaring himself  
 “the master of the renowned Gorman; but Buck denied  
 “him the honour of that courageous disciple, and assert-  
 “ing that he himself had taught that champion, accepted  
 “the challenge.

“There is something in nature very unaccountable on  
 “such occasions, when we see the people take a certain  
 “painful gratification in beholding these encounters. Is  
 “it cruelty that administers this sort of delight? Or is  
 “it a pleasure which is taken in the exercise of pity? It  
 “was, methought, pretty remarkable that, the business of  
 “the day being a trial of skill, the popularity did not run  
 “so high as one would have expected on the side of Buck.  
 “Is it that people’s passions have their rise in self-love,  
 “and thought themselves (in spite of all the courage they  
 “had) liable to the fate of Miller, but could not so easily  
 “think themselves qualified like Buck.”

The article in *The Spectator* concludes with a quotation

from Cicero, or, as it was the fashion then, to call that eminent writer and orator "Tully." Without troubling my readers with the Latin version, I give the following free translation:—

"The shows of gladiators may be thought barbarous and  
 "inhumane, and I know not but it is so, as it is now prac-  
 "tised; but in those times, when only criminals were com-  
 "batants, the ear perhaps might receive many better in-  
 "structions, but it is impossible that anything which affects  
 "our eyes should fortify us so well against pain and death."

That what is now called a cross, so common I regret to say, in the present time, both in horse racing and other popular pastimes, was not entirely unknown in the days of Queen Anne of blessed memory, seems clear from a letter in *The Spectator*, which is to be found in the same volume from which the above extract is taken. In No. 449 the following letter appears:—

"Mr. Spectator,—

"I was the other day at the Bear Garden, in hopes to  
 "have seen your short face, but not being so fortunate,  
 "I must tell you, by way of letter, that there is a mystery  
 "among the gladiators which has escaped your Specta-  
 "torial penetration. For being in a box at an alchouse,  
 "near that renowned seat of honour above mentioned,  
 "I overheard two masters of the science agreeing to  
 "quarrel on the next opportunity. This was to happen  
 "in the company of a set of the fraternity of Basket Hiltz,  
 "who were to meet that evening. When this was settled,  
 "one asked the other, 'Will you give cuts or receive?'  
 "The other answered, 'Receive.' It was replied, 'Are



“ ‘you a passionate man?’ ‘No, provided you cut no  
 “ ‘more nor no deeper than we agree.’ I thought it my  
 “ duty to acquaint you with this, that the people may not  
 “ pay their money for fighting and be cheated.

“ Your humble servant,

“ SCABBARD RUSTY.”

The following show bill, as advertising placards were then called, dated July 13, 1709, is selected from a miscellaneous collection of title pages, bills, &c. in the Harleian Collection, marked 115, and is so curious that I shall transcribe it *verbatim*. It runs thus:—

“ At the Bear Garden, in Hockley-in-the-Hole, near  
 “ Clerkenwell Green, a trial of skill shall be performed  
 “ between two masters of the noble science of defence, on  
 “ Wednesday next, at two of the clock precisely.

“ I, George Gray, born in the city of Norwich, who  
 “ have fought in most parts of the West Indies, namely,  
 “ Jamaica and Barbadoes, and several other parts of the  
 “ world, in all twenty-five times, and upon a stage, and  
 “ never yet was worsted, and being now lately come to  
 “ London, do invite James Harris to meet and exercise  
 “ at these following weapons, namely, back-sword, sword  
 “ and dagger, sword and buckler, single falchon, and case  
 “ of falchons.”

“ I, James Harris, master of the said noble science of  
 “ defence, who formerly rid in the Horse Guards, and  
 “ hath fought a hundred and ten prizes, and never left a  
 “ stage to any man, will not fail, God willing, to meet  
 “ this brave and bold inviter at the time and place ap-



“pointed; desiring sharp swords, and from him no favour.  
 “No person to be upon the stage but the seconds. Vivat  
 “Regina!”

Sword and dagger, alluded to in the list of accomplishments set forth by Mr. Sergeant Miller and George Gray, is mentioned by Shakspeare in the “Merry Wives of Windsor, act 1, scene 1,” in which Master Slender says, “I bruised my shin the other day in playing at sword and dagger with a master of fence.”

“Back sword” and “falchion” are both described by Dr. Johnson, who says that:—“Back sword is from back and sword, a sword with one sharp edge.”

An allusion to it is made by Arbuthnot in the following line:—

Bull dreaded not old Lewis at backsword.

He (Dr. Johnson) describes “the falchion” as “*ensis falcatus*; in French *fauchon*, a short crooked sword, a “cymeter:” and Shakspeare alludes to it thus:—

I've seen the day with my good biting falchion,  
 I would have made them skip; I am old now.

*King Lear*, act 5, scene 3.

Dryden, in his translation of the *Æneid*, mentions the arm:—

Old falchions are new tempered in the fires;  
 The sounding trumpet every soul inspires.

Ambrose Philips, an author, who gained some credit in the year 1712 by his play called “The Distrest Mother,”

which, after all, is a mere adaptation of Racine's "*Andromaque*," also alludes to the falchion,—

"What sighs and tears  
Hath Eugene caused; how many widows curse  
His cleaving falchion."

Dr. Johnson, who has thought Philips's name worthy of a place in his "Lives of English Poets," says, "He has added nothing to English poetry, yet at least half his book deserves to be read."

So much for the back sword, the sword and dagger, the sword and buckler, and the falchion.

Of the rapier, or small sword, I have written in a somewhat desultory manner, but I may refer those who are curious on the subject of this, the weapon with which the real true duel was and is fought, to the charming work of De Brantôme, from which I would gladly quote whole passages, nay, pages and chapters, in the quaint old French of the original, if my space would allow the introduction of so much additional matter. At the same time, let me advise those who wish to cull flowers of chivalrie from the doings of the brave knights whose feats are in his treatise *Sur le Duello*, chronicled, and especially such as relate to "Feu M. de la Chastaigneraye mon oncle," to turn to the book, to read it from beginning to end, and then to ask themselves whether they were ever so much amused by the perusal of a modern sensational tale as by "Les Mémoires touchant les Duels," "par Le Seigneur De Brantôme."

In the compilation of this little work I have kept

steadily before my eyes the question of legality or illegality as applied to the games of which I have given any account. No doubt when, as I have stated, danger or no danger is the test, it must be clear that weapons of steel or iron *primâ facie* are more deadly, more likely to work mischief, than arms made of wood. Still I have a vivid recollection of the performances of a certain M. Le Boucher, who came over to England some years ago to show us what the *Savate* was as practised in France, and he most assuredly wielded the quarter staff in such a way that unless his adversary was pretty much as skilful as he was, there would be a very poor chance of his avoiding what is called a "grêle de coups," and, as it seemed to me, one fair crack on the head would have felled him to the ground never to rise again; as Byron did or did not write, it would be a case of "There let him lay."

However, a few words on the quarter staff as being almost as dangerous, when savagely manipulated, as the sword, whether used for thrusting or cutting, will satisfy the exigencies of this chapter.

Dr. Johnson describes the quarter staff as "a staff of defence," and adds, that it is called quarter staff from the manner of using it, one hand being placed at the middle, and the other equally between the end and the middle. He quotes the following passages under the head "Quarter Staff" :—

"His quarter staff which he could ne'er forsake,  
Hung half before and half behind his back."

*Dryden.*

"Immense riches he squandered away at quarter staff

“ and cudgel play, at which he challenged all the country ”  
 (*Arbuthnot*).

Johnson, in his Dictionary, frequently quotes Arbuthnot, and I trust that I shall not be considered impertinent for reminding my readers that he was a celebrated writer, physician to Prince George of Denmark and to Queen Anne, a cotemporary with and an ally of Pope and Swift, and that he is described as being a great wit, without ill-nature, and a most humane and amiable man. He was born in 1675, and died in 1735.

I believe that quarter staff was and still is played in Devonshire and Cornwall, and I know that there is in existence a pamphlet, of the title page to which the following copy may be amusing :—

“ Three to one, being an English-Spanish combat per-  
 “ formed by a western gentleman, of Tavistock, in Devon-  
 “ shire, with an English quarter staff, against three rapiers  
 “ and poniards, at Sherries (Xeres), in Spain, in the  
 “ presence of the dukes, condes, marquises and other  
 “ great dons of Spain, being the council of war ; the  
 “ author of this booke and actor in this encounter being  
 “ R. Peecke.” On the same page is a rude woodcut re-  
 presenting the hero with his quarter staff in the act of  
 fighting with the three Spaniards, who are armed with  
 long swords and daggers.

To these my observations on this weapon I will only add that, notwithstanding the proverbial “ perils which do  
 “ environ The man who meddles with cold iron,” a six foot  
 quarter staff in vigorous hands is a very formidable arm.

I think I have now pretty well exhausted the subject of

sword playing and games or pastimes rendered illegal on account or by reason of the danger involved to life or limb. Of course a book might be written, and, in fact, books have been written, on duels, whether with swords, pistols, or as that "recreation" is said to be practised in certain countries, bowie knives and rifles, but sufficient it is to know that all duelling is utterly illegal in England, and that all fighting, with or without dangerous weapons, with or without angry motives is, and ever will be, if I may be permitted to prophesy on a subject which needs no prophet, entirely offensive to our laws.

Innocent play with weapons, such as fencing, and single stick playing, and boxing carried on without rancour—fairly and in moderation, is permitted to the full extent, but when the issue involves the maiming or disabling of the vanquished man, I may safely lay it down that the game, sport, pastime, or whatever it is called, is illegal, and that the offender is liable, either at common law or by statute, or by some judge-made law, to punishment for having so conducted himself as to endanger the life or injure the body or limb of any one living under the rule of her Majesty the Queen of Great Britain and Ireland.





CHAPTER XVI.

Combats with Fists at Venice in Olden Times.





## CHAPTER XVI.

### COMBATS WITH FISTS AT VENICE IN OLDEN TIMES.



HAVING disposed of the subject of violent and illegal sports in which dangerous weapons are used, my attention has naturally been turned to violent and illegal sports in which the performers used only the weapons furnished to them by nature. For reasons given in my eleventh chapter, I have determined to exclude all notice of prize-fighting in England. In the course of my researches, however, I have met with a curious account of the combats with fists which formerly prevailed, and which were very popular, in Venice. It occurs in a work entitled “The City and Republick of Venice. Originally written in French by M. de S. Desdier. London: Printed for Chas. Brome, at the Gun, at the west end of St. Paul’s, 1699.”

The chapter, which I think well worth the perusal of my readers, is headed:—

“OF THEIR BOXING, OR FIGHTS AT CUFFS,”

and runs as follows:—

“The City is divided, as it has been observed, into Six several Quarters, three being on this side, and as many on the other side, of the Great Canal. Yet the People

“ are divided only into Two Factions, each of which has  
“ three Wards or Quarters in their Parties. The Castelani  
“ are the first, who have that name from the quarter of  
“ Castelo, in which is the Patriarchal Church at one of  
“ the extremities of this City. The others are the Nico-  
“ letti, so called from the Church of St. Nicholas at the  
“ farthest end of the quarter, which has the greatest  
“ number of Common People and Fishermen, who are the  
“ bravest and those that make the best Sport in these  
“ Engagements. So the Party of the Nicolettos has  
“ commonly the Advantage over their Adversaries, the  
“ Castelans. The Animosity of the People seems so  
“ great in these Occasions which I am at present upon  
“ describing, that one would think a People brought up in  
“ these Partialities and in this manner so strangely divided  
“ should never be able to live in that Union and Tran-  
“ quillity which is necessary to the preservation of the  
“ State.

“ There are among these sorts of People several Heads  
“ of the Factions, who really believe that they cannot be  
“ esteemed as Men of Worth if they engage into the op-  
“ posite Party. Insomuch that they had rather miss a  
“ good Opportunity of providing for their Daughters than  
“ to marry them to a Man of the contrary Side. These  
“ Partialities are not found to affect the Common People  
“ only, but in some measure to reach the Nobility, who  
“ declare themselves of the Faction of the Quarter they  
“ live in. Yet with this Difference, that they esteem  
“ these Boxing Matches for Diversions, which the meaner  
“ People convert into an Affair of Importance and Repu-

“ tation. And among the rest even the strangers are  
 “ engaged into the parties, for such as come to Venice  
 “ from Chiosa are esteemed as Castelans, and those  
 “ who arrive here by Mestre, or by Fucine, are reputed  
 “ Nicholettis.

“ There is no doubt but that the Republick can, with-  
 “ out much trouble, disperse these Partialities by con-  
 “ tinually preventing the two Parties from coming to  
 “ blows, as it sometimes happens. But the Senate is of the  
 “ Opinion, That if the People form a Conspiracy against  
 “ the State, or the Nobility, that it would be almost  
 “ impossible, for two such Opposite Factions, to unite so  
 “ far as to join in a Design of this nature. By which  
 “ means they think themselves secure of one-half, or at  
 “ least to oppose the Designs of the other, by the ready  
 “ succours they might expect from the Contrary Party:  
 “ And the rather by reason that the Castelans esteem  
 “ themselves for a more civilized People than the Nico-  
 “ lettis; as also more engaged to the Nobility and zealous  
 “ to the Government: Therefore the Republick does not  
 “ only tolerate this Division already reigning in the  
 “ People but they likewise increase it by permitting of it  
 “ to be observed, in that manner it is acted.

“ If the Presidents of the Council of Ten, who are the  
 “ principal Officers of the Civil Government, should per-  
 “ mit the full Liberty of these Fights to the People, so  
 “ great is the Animosity as likewise the desire of acquir-  
 “ ing the Reputation of being a Man *that uses his Fists*  
 “ *well*, so strong among the Gondoliers and Populace:  
 “ that these Exercises would not only happen upon

“ every Holy-Day, as they frequently do upon certain  
“ Bridges of the City; but they would undoubtedly become  
“ common to the Day, even throughout all Seasons of the  
“ year. The difficulty which is found, in preventing these  
“ Fights, when any of the Presidents of the Council of  
“ Ten are against it; may be admitted as a very good  
“ Instance of what is here said. For the Captain of  
“ Sbirris and his People are scarce able to get those  
“ Orders obeyed; being the Guard that is placed upon  
“ St. Barnaby’s Bridge, which is the usual Field of  
“ Battel, and does only prevent them at that Place; for  
“ they are sure to seek others more remote, rather than  
“ to be deprived of the Pleasure of Fighting.

“ Such of the Gondoliers as have acquired the Reputa-  
“ tion of Good Boxers will not hire themselves, unless  
“ they are permitted, by the Agreement, to signalize  
“ themselves in these Famous Occasions. Even the  
“ little Children, that accidentally meet in the Streets, do  
“ demand of each other, who they are for, and if they are  
“ of Contrary Factions, they are certain not to part with-  
“ out Blows. The Humour runs strangely upon this  
“ rough Exercise, for the People do ever stop to behold  
“ and encourage them; even to such a Degree, that the  
“ most general Diversion of this City, is the sight of the  
“ ‘ Pugni,’ as they are practised in almost all seasons of  
“ the year; being sometimes seen when the Ice is in the  
“ Canals. The order that I did propose to myself has  
“ not permitted me to speak of it in any other Place; so  
“ I shall Conclude the Description of the Public Recrea-  
“ tions with that of these Fights, which are of three diffe-

“ rent sorts, viz., La Montre, La Frotte, and the Battel-  
 “ Array.

“ LA MONTRE is that sort of Fight which is performed  
 “ hand to hand between two Men, but with very singular  
 “ circumstances. The Bridge of St. Barnaby is usually  
 “ the Theater of these Tragy-Comedies; for this Bridge  
 “ hath an equal number of Steps on each side, as likewise  
 “ two Keys, almost of an equal Bigness, which is pos-  
 “ sessed by the Parties of the two Factions; so that the  
 “ Advantages in all respects are equal on both sides;  
 “ Moreover, the Canal is long and directly straight,  
 “ whose Houses are for this means, conveniently situated  
 “ for the great number of Spectators that flock hither  
 “ from all Parts of the Town, so soon as these Boxing  
 “ Matches are known. The Houses and Windows are  
 “ not only filled with them, but likewise the tops of the  
 “ Houses; the Keys and Neighbouring Bridges are  
 “ covered with them, as also the Barques and Gondolos  
 “ in the Canals.

“ Yet the particular Matches are not begun until the  
 “ Godfathers are come to the Bridge. These are two  
 “ serious and notable Burgers, who have by their Valour  
 “ in these sorts of Exercises, raised themselves to the  
 “ Dignity of Arbiters of Victory, and Judges of the  
 “ Bravery of the Combatants. These Worthies lay by  
 “ their Cloaks, and after several Conferences on both  
 “ sides for the Regulation of such things as might other-  
 “ wise occasion a Difference, they go up to the Top of the  
 “ Bridge which is built like others; that is, flat about  
 “ four or five Paces in length, and three or four in

“ breadth, Paved with Brick, and raised on each side  
“ with Free Stone, but without any Rails or other  
“ Security. These are the principal Articles of the Fight.

“ 1. They are not to strike their Adversary when they  
“ have thrown him upon the ground, without passing for  
“ mean spirited and unworthy the Honour of Fighting ;  
“ therefore the Judges do immediately part them.

“ 2. That the Victory shall be declared in his behalf  
“ that first draws Blood of his Adversary, at the Nose,  
“ Mouth, or the Face, which is called ‘romper il mustaccio  
“ et esser rotte.’ But as the Combatants are not obliged  
“ to open their Mouths and to show if those slaps on the  
“ Chops have not moved the Blood ; so it is most  
“ ridiculously pleasant to see them keep their Lips close  
“ shut, and making signs to the Judges, that they are not  
“ out of Heart, but resolved to dispute the Victory to  
“ their utmost.

“ 3. That in case there is no blood shed on either side  
“ in the first three Heats, the Combatants shall go off and  
“ make way for others, but they are made to Embrace by  
“ the Judges, and so part good Friends.

“ 4. He that throws his Adversary into the Canal, is to  
“ have a double Victory adjudged to him.

“ 5. And Lastly, If one of either Party presents  
“ himself, and none of the other dare to dispute it with  
“ him, as it sometimes happens, that this Advantage shall  
“ not be less esteemed, than if he had Vanquished his  
“ Rival. So he that meets with this Piece of good  
“ Fortune, shows himself not a little proud of it ; for  
“ having for some time stood to offer himself to all that

“ are willing to Answer the Challenge, he salutes the  
“ Company with a Leg and his Cap, and retires.

“ When Matters are thus order'd the Endeavours on  
“ both Sides are equal, to go first up to the Bridge, for to  
“ show themselves the first Beginners of these Exercises,  
“ who get immediately free of their Shoes and Waistcoats,  
“ and slipping their Shirts down to the Waist, they roll it  
“ about them, with the long Sashes which they usually  
“ wear. They have a Glove on their Right Hand, to the  
“ end the Fist may be firmer, and their Hair being  
“ tucked up under their Caps, they place themselves at  
“ the two Angles opposite to the Platform of the Bridge ;  
“ and the two Godfathers take their Standings on the other  
“ two Sides ; leaving to them the full Liberty of the Field  
“ of Battel.

“ It is no small matter of Admiration to see with what  
“ Strength and Fury the stoutest of These fellows do  
“ accompany the Blows they give their Adversaries ; the  
“ Sound of which may be almost as far heard as seen,  
“ which are commonly made at the Face or the small of  
“ the Ribbs ; insomuch, that sometimes one of them is  
“ knocked down with the first stroke of his Enemy, when  
“ it chances to light full upon his Chin or Temple, which  
“ lays him as flat as if he were Thunder-Struck. To see  
“ them thus tumble inanimate, and frequently breaking  
“ their Heads in the Fall ; one would not imagine that it  
“ should pass for a trifle, and they recover again.

“ Others are so vigorous and sure of their Strokes,  
“ which they repeat with so much Dexterity and Agility,  
“ without ever coming to closing, or giving time to their



“ Adversaries to look about them, but quickly oblige them  
“ to seek their Safety, by leaping into the Canal; imme-  
“ diately expressing the Joy of so complete a Victory,  
“ with their rebounding Capers, which are accompanied  
“ by the repeated Huzzas of the People of that Faction.  
“ The Venetian Gentry who are at the Windows on that  
“ side of the Bridge with their Party, are usually those  
“ who make the most noise, and that show themselves  
“ most affected with these Advantages; who stretching  
“ themselves out of the Windows, flourish their Handker-  
“ chiefs in Testimony of the Victory’s being on their side;  
“ as likewise to animate the remaining Combatants to an  
“ ample Performance of their Parts. However, those  
“ Accidents are no sooner over, and the Combatants  
“ retired to their respective Parties, but their Places are  
“ instantly possessed by two others, who, that they may  
“ not lose time, do generally stand ready stripped and in  
“ a Posture of Engaging. This usually continues a whole  
“ Afternoon before the Victory becomes determinable;  
“ upon which the Successful, have no other Prize, than  
“ the Reputation and Glory of their brave Actions;  
“ which they are sufficiently careful to perpetuate even to  
“ Posterity. For many of them will have themselves  
“ painted in the Posture they are accustomed to Fight,  
“ with their Names and the Particulars of their mighty  
“ Deeds.

“ The latter end of the Day is concluded with reckoning  
“ up the Number of Battels won and lost of each side,  
“ which is ever very honourable to the superior Party:  
“ But what is the most regarded is the number of those



“ that are thrown into the Canal; as being what the  
 “ Combatants do most endeavour to avoid, after they are  
 “ come to Closing by using their utmost efforts to pre-  
 “ serve themselves from the dis-reputation of such an  
 “ Overthrow; rather choosing the worst of Consequences,  
 “ from those terrible Falls that sometimes happen to  
 “ them by lighting upon the steps of the Bridge, than  
 “ to be thrown into the Water, where they meet with no  
 “ Contusions. But the pleasantest sight of all, is to behold  
 “ one of these Fellows thrown over the Bridge, yet hang-  
 “ ing by his Adversary’s Hair, and the other endeavouring  
 “ to avoid being drawn into the Water by him, who is most  
 “ an end finally obliged to follow him into the Canal,  
 “ where the Water parts them; for no sooner are they  
 “ over the Bridge, and from the Ground, but all Ani-  
 “ mosities cease; each of them struggling for himself;  
 “ and they the same good Friends they were before the  
 “ Fight.

“ LA FROTTE is an engagement of several that begins  
 “ accidentally and without design, but proceeds from the  
 “ impatience which the crowd of combatants show, when  
 “ they are once got to the Rendezvous, and the judges not  
 “ come regularly to receive the several parties, according to  
 “ the way of the Montre. The children being got first up  
 “ to the Bridge in imitation of the men, do commonly  
 “ begin to skirmish. The great boys insensibly mingling  
 “ themselves with them, render the dispute so warm until  
 “ at length the men thinking their honours concern’d for  
 “ to be Masters of the Bridge, do likewise engage in the  
 “ same fray. Then is the fight at the highest pitch, for

“ each party endeavours their utmost to drive off the  
 “ enemy. This controversy is maintained with so much  
 “ obstinacy and heat, that great numbers of them are  
 “ tumbled into the canal, who, notwithstanding their being  
 “ cloathed, do seem no more concern’d than if they had  
 “ fell upon straw.

“ Such as do not fight on these occasions use their utmost  
 “ endeavours to excite their parties to behave themselves  
 “ gallantly. The Venetian gentlemen encourage the  
 “ contenders, by sometimes promising them to reward  
 “ their courage. It has several times happened that some  
 “ of these nobles have been so zealous for the reputation  
 “ of their factions that through indignation to those of  
 “ their party that have not behav’d themselves to their  
 “ minds, they have gone from the bridge, and stripping  
 “ themselves of their vests, have espoused the party with  
 “ the best of their endeavours, by their example inspiring  
 “ courage to the vanquish’d, and bringing them off with  
 “ victory, or at least by having more honorably contended  
 “ for it.

“ The **BATTEL-ARRAY** is a general engagement that is  
 “ made between the two factions ; but with all the neces-  
 “ sary precautions that can be taken between the parties,  
 “ to render the fight more equal, that so the glory may be  
 “ entire to the victorious.

“ When Cardinal Chigi was at Venice, Cardinal Delfino  
 “ that entertain’d him was very desirous to have shown  
 “ him this diversion, and was accordingly a considerable  
 “ time negotiating with the heads of both the parties, to  
 “ induce them to a general and famous Battel. The diffi-

“culties were so great that the Cardinal in person solicited  
“those of the Artisans that had the greatest authority in  
“their factions. He went to their shops, caress’d, in-  
“treated and promis’d them to bestow a considerable  
“prize on the victorious.

“Matters were at length agreed on, a bridge was chosen  
“upon the Key of the Incurables, which is very spacious.  
“The steps were made larger that were something smaller  
“than those on the other side of the Bridge; and certain  
“places of the Key were taken in with planks which  
“otherwise would have permitted more space to the  
“Nicoletti’s, than it was possible for the Castelans to  
“have. The fury of the combat wholly possess’d the  
“thoughts of the people, nothing else was discours’d  
“among them:—insomuch that it seem’d as if the entire  
“overthrow of one of the parties was at hand. But the  
“Presidents of the Council of Ten, with much reason  
“fearing that this animosity, which had hitherto never  
“appear’d so great, might be attended with dangerous  
“consequences, thought it absolutely requisite to forbid  
“the Battel. So, unless these parties do secretly agree  
“between themselves there is no general Battel, or *Guerra*  
“*ordinata* to be seen, yet when it happens the greatest  
“part of the combatants provide themselves with Back  
“and Breast Pieces of Gilt Pasteboard, which they put  
“over their naked bodies, both for the finery of the show,  
“as also to break the force of their adversaries stroaks.

“The victory of this Battel, consists in getting posses-  
“sion of the Bridge, for which reason it do’s not so much  
“depend upon the dint of Blows, as upon the endeavours

“ of both parties to drive away their adversaries. Yet  
“ that the dispute may begin upon equal terms, the com-  
“ batants put themselves in order. The first ranks are  
“ brought close to each other, upon the very center of the  
“ bridge. Then they begin to break each others ranks  
“ with the greatest fury, but they being well supported,  
“ and each side alternatively push’d by the other, such  
“ violent efforts are usually made by the great number of  
“ contenders that they in the first ranks are of course  
“ borne from the ground, or the main bodies being closer  
“ joined than the flanks, those of both the right and left  
“ sides are consequently so violently press’d by the center,  
“ as they are sometimes forc’d to leap into the water, by  
“ fifties and sixties at a time.

“ In this condition only the first ranks of the two parties  
“ are able to fight who are yet obliged to hold their  
“ hands up to have the free exercise of them: the hind-  
“ most are sure to get upon their companions, and passing  
“ over their heads go to attack their enemies whose noses  
“ and faces would undoubtedly suffer without any danger  
“ to the assailants if they of the contrary party did not  
“ take the same method, insomuch that the fight of this  
“ second story becomes more terrible than the other. In  
“ which occasions the utmost endeavours being repeated  
“ with all imaginable fury to bring each others flanks into  
“ disorder, the greatest confusions happen at which time  
“ they are borne by crowds into the Canal. Insomuch  
“ that it is really wonderful that these fights are not  
“ terminated with the death of a great many of the com-  
“ batants. Besides the heat of their contention do’s so

“ animate this multitude of people, and the indignation of  
 “ the inferior party is so great that they would undoubtedly  
 “ betake themselves to their arms; if the order was not  
 “ very exact and rigorous in preventing the danger of  
 “ these accidents. However it has sometimes happened  
 “ that the pavement of the Key has been torn up, to make  
 “ use of the stones for want of other arms whereby it is  
 “ not without some reason that this fight is called by the  
 “ Venetians, *una stragge di Christiani*. The rejoycings  
 “ of the victorious are continu’d for three days after the  
 “ fight, for which purpose a boat is adorn’d with garlands,  
 “ and a great crown hung in the middle, which they con-  
 “ duct with beat of drum, through all the Canals and  
 “ quarters of their party as likewise to the houses of the  
 “ nobles as most espous’d their cause, who always bestow  
 “ some money or barrels of wine on them to solemnize  
 “ the glory of the victory. By night they walk up and  
 “ down with flambeaus of straw, follow’d by the boys who  
 “ run after them on the Keys, perpetually huzzaing the  
 “ name of their faction. The vanquished on the contrary  
 “ are so mortifi’d, as some of them dare not return to  
 “ their habitations; for their wives have sometimes not  
 “ only refus’d them entrance, but driven them away:  
 “ reviling their cowardize with the most injurious terms,  
 “ *Via di qua infami, por chi vituperosi, &c.*”

The above chapter from a not very well-known work will  
 be interesting to my readers, and at the same time a sub-  
 stitute for any account of our own prize-fighting and prize-  
 fighters, of which and of whom, for reasons previously  
 given, I have determined to say nothing. Lest, however, it

might be suggested that these famous gondoliers were able to meet us on our own soil, and to beat us at our own peculiar game, I may be excused for quoting a passage from a work by Captain Godfrey, who was the first author who wrote on the science of self-defence with nature's weapons on anything like a reasonable plan, and in anything like a readable form. I find in his treatise the following passage :—

“ It was about this period that the whole boxing hemisphere was up in arms, occasioned by insolent threats of the English laurels being torn from their native soil and transplanted into a foreign land. A Venetian gondolier threw down the gauntlet, boasting that he would break the jaw-bone of any one who might have the temerity to meet him. He was a man of prodigious strength, possessing an arm not only very large and muscular, but surprisingly long. His fame ran before him, and his impetuosity was described to be irresistible. He was considered a good subject for winning. He was matched against Figg, whose superiority was at once manifested, and the gondolier became an easy victory.”

Figg died in 1740, so that this combat must have taken place about the period during which the Venetian gondoliers are said to have been so formidable, according to the work from which I have extracted the main substance of this chapter.

I find that a man who fought under the name of the Venetian Gondolier was beaten in the prize ring in three rounds by Bob Whittaker in the year 1733. The respectable Bob was afterwards, and in the same year, beaten by

a man bearing the name of Nat. Peartree, so that the Venetian who came over to represent the prowess of his fellows, if he be the same man who was so unceremoniously treated by Figg, "took nothing by his motion," as the lawyers would say.







## CHAPTER XVII.

Games which have become obsolete, partly by reason of Statutable Prohibition and partly by reason of their Intrinsic Cruelty.



## CHAPTER XVII.

### GAMES WHICH HAVE BECOME OBSOLETE, PARTLY BY REASON OF STATUTABLE PROHIBITION AND PARTLY BY REASON OF THEIR INTRINSIC CRUELTY.



It seems to me tolerably clear that many of the games, sports, and pastimes of our ancestors, owed their popularity to the cruelty inseparable from the mode in which they were conducted and carried out. Otherwise how can we account for the intense pleasure and satisfaction with which bull, bear, and badger baiting, to say nothing of cock fighting and similar amusements were regarded at no very distant period? It is true that those who indulged in these pastimes looked upon the courage of their dogs and the ferocity and endurance of the poor beasts as a pleasing ingredient in the sport, but the suffering endured by the animal baited must to men of a savage disposition have had something to do with the pleasure experienced by the spectators. Much, I fear, that the change in the dispositions of those of the present day has not been of so radical a nature as to justify the hope that cruel amusements have become obsolete from a sense of their cruelty, else how can we account for the almost

rabid delight with which bull fights are witnessed, even by women, in Spain; and to come nearer home, the intense enjoyment with which so many, really kindhearted, men and women, hunt a poor tame stag deprived of his antlers, or that perhaps mischievous but certainly worthless animal the fox, pursuing the suffering and terrified brute for miles, with a pack of yelping hounds, and urging their high-bred horses with whip and spur to follow over all but impossible obstacles, until at last comes the fall—"the horse's back is broken," and he is shot to put him out of his misery; when having done all he can, he succumbs to the pace and his master's vanity, which has prompted him to be "in the first flight." No doubt the progress of civilization and certain enactments, prompted by such progress, have put an end to systematic and gross cruelty in our amusements, but to say that cruel and inhuman sports are in these days unknown would not be accurate or true. Still as a general rule these pursuits are not looked upon with a favouring eye, and are more or less followed with some degree of privacy, as being illegal and rendering those taking part in them amenable to punishment. So far there is a palpable improvement in our manners, and many sports and pastimes formerly openly enjoyed by the public, and even encouraged by the authorities, are now either absolutely unknown or practised in secret, as contrary to the law of the land and the opinion of decent folk.

I propose now to give a short description of the mode in which certain cruel pastimes were conducted in the early days of our history, and bringing my subject up to the present time, according to the plan adopted in the

compilation of this work, to intersperse my narrative with such amusing matter as I may meet with in the course of my researches after information on my subject.

I find from Strutt's "Sports and Pastimes," that formerly animals were regularly trained for baiting, and exhibited by their masters, and most probably let out on hire to be maltreated. He says—"Training of bulls, bears, horses, and other animals, for the purpose of baiting them with dogs, was certainly practised by the jugglers, and this vicious pastime has the sanction of high antiquity. Fitz-Stephen, who lived in the reign of Henry II., tells us that, in the forenoon of every holiday during the winter season, the young Londoners were amused with boars opposed to each other in battle, or with bulls and fullgrown bears baited by dogs." Description of London. See also Stow's Survey, p. 78. With respect to the baiting of horses he says, "I believe the baiting of these noble and useful animals was never a general practice; it was, however, no doubt partially performed" (the manner in which it was carried into execution appears by an engraving, No. 76, p. 243, in his "Sports and Pastimes"). "Asses also were treated with the same inhumanity, but probably the poor beasts did not afford sufficient sport in the tormenting, and therefore were seldom brought forward as the objects of this barbarous diversion."

In the reign of King Edward III. a proclamation was issued prohibiting bull baiting and cock fighting, not on account of the cruelty of the sports, but as being "dishonest, trivial and useless."

I think we may take it that bulls and bears were the favourite "objects," as Strutt calls them, and he goes on to inform us that, "There were several places in the vicinity of the metropolis set apart for the baiting of beasts, and especially the district of St. Saviour's parish, in Southwark, called Paris Garden, which place contained two bear gardens, said to have been the first that were made near London, and in them, according to Stow, were scaffolds for the spectators to stand upon, and this indulgence, we are told, they paid for in the following manner:—'Those who go to Paris Garden, the Bell Savage, or Theatre to behold bear-baiting, interludes, or fence play, must not account of any pleasant spectacle, unless first they pay one pennie at the gate, another at the entree of the scaffold, and a third for quiet standing.'" Lambarde's "Perambulation of Kent," A.D. 1570, p. 248.

"One Sunday afternoon in the year 1582, the scaffolds, being overcharged with spectators, fell down during the performance, and a great number of persons were killed or maimed by the accident." Stow, *supra*.

Speaking according to more modern views I should say they were not to be pitied for their misfortune. It would seem that even in Strutt's time the world was becoming humanized, for he proceeds as follows:—"Bull and bear baiting is not encouraged by persons of rank and opulence in the present day, and when practised—which rarely happens—it is attended only by the lowest and most despicable part of the people, which plainly indicates a general refinement of manners, and preva-

“lency of humanity among the moderns; on the contrary, this barbarous pastime was highly relished by the nobility in former ages, and countenanced by persons of the most exalted rank, without exception even of the fair sex. Erasmus, who visited England in the reign of Henry VIII., says there were many herds of bears maintained in this country for the purpose of baiting.” *Erasmi Adagia*, p. 361. When Queen Mary visited her sister, the Princess Elizabeth, during her confinement, at Hatfield House, the next morning, after mass, a grand exhibition of bear baiting was made for their amusement, “with which, it is said, their Highnesses were right well content.” *Life of Sir Thomas Pope*, sect. 3, p. 85. Queen Elizabeth, on the 25th of May, 1559, soon after her accession to the throne, gave a splendid dinner to the French ambassadors, who afterwards were entertained with the baiting of bulls and bears, and the Queen herself stood with the ambassadors looking on the pastime till six at night. The day following, the same ambassadors went by water to Paris Garden, where they saw another baiting of bulls and of bears; and, twenty-seven years afterwards, Queen Elizabeth received the Danish ambassador at Greenwich, who was treated with the sight of a bear and bull baiting, “tempered,” says Holinshed, “with other merry disports.” *Chronicle of England*, vol. 3, folio 1552. “And for the diversion of the populace, there was a horse with an ape upon his back, which highly pleased them, so that they expressed their inward-conceived joy and delight with shrill shouts and a variety of gestures.” *Nicholls’s Progresses*, vol. 2,

p. 228. There is nothing new under the sun; a similar exhibition drew crowds to the Holborn Circus a short time ago.

The manner in which these sports were exhibited towards the close of the sixteenth century is thus described by Hentzner, who was present at one of the performances:—“ There is a place built in the form of a theatre, which “ serves for baiting of bulls and bears; they are fastened “ behind, and then worried by great English bull dogs, “ but not without risk to the dogs from the horns of the “ one and the teeth of the other; and it sometimes happens “ they are killed on the spot, fresh ones are immediately “ supplied in the places of those who are wounded or “ tired. To this entertainment there often follows that of “ whipping a blinded bear, which is performed by five or “ six men standing circularly with whips, which they exer- “ cise upon him without any mercy, as he cannot escape “ because of his chain; he defends himself with all his “ force and skill, throwing down all that come within his “ reach, and are not active enough to get out of it, and “ tearing the whips out of their hands and breaking them.” Itinerary, Latin, A.D. 1598. Translated by Lord Orford. Laneham, speaking of a bear baiting before Queen Elizabeth in 1575, says, “ It was a sport very pleasant to see the “ bear, with his pink eyes, learing after his enemies, ap- “ proach, the nimbleness and wait of the dog to take his “ advantage, and the force and experience of the bear “ again to avoid his assaults; if he were bitten in one “ place how he would pinch in another to get free, that if “ he were taken once, then with what shift with biting,



“ with clawing, with roaring, with tossing and tumbling, “ he would work and wind himself from them; and, when “ he was loose, to shake his ears twice or thrice with the “ blood and the slaver hanging about his physiognomy.” The same writer tells us, that thirteen bears were provided for this occasion, and they were baited with a great sort of ban-dog. Nicholls’s Progresses, vol. 1, fol. 249. “ In the “ foregoing relations,” says Strutt, “ we find no mention “ of a ring put into the nose of the bear when he was “ baited, which certainly was the more modern practice, “ hence the expression by the Duke of Newcastle, in the “ ‘ Humorous Lovers,’ printed in 1617: ‘ I fear the wed- “ ‘ lock ring more than the bear does the ring in his “ ‘ nose.’ ”

The author of an account of the games at Kenilworth describes the “ terrible tearing of the bear” as “ a sport “ very pleasant and a matter of goodly relief.”

When a bear-baiting was about to take place, the same was publicly made known, and the bearward previously paraded the streets with his bear, to excite the curiosity of the populace, and induce them to become spectators of the sport. The animal on these occasions was usually preceded by a minstrel or two, and carried a monkey or baboon on his back. In the “ Humorous Lovers,” Tom of Lincoln is mentioned as the name of a “ famous bear;” and one of the characters, pretending to personate a bearward, says, “ I’ll set up my bills, that the gamesters of “ London, Horselydown, Southwark, and Newmarket, “ may come in and bait him here before the ladies; but “ first, boy, go and fetch me a bagpipe; we will walk the

“ streets in triumph, and give the people notice of our sport.” I find in the Harleian manuscripts, No. 15, in a miscellaneous collection of bills, title pages, &c., from which I have before extracted some matter for this book, the two following advertisements, which were published in the reign of Queen Anne, and which may serve as a specimen of the elegant manner in which these pastimes were announced to the public:—

“ At the bear-garden in Hockley-in-the-Hole, near Clerkenwell Green, this present Monday, there is a great match to be fought by two dogs of Smithfield Bars against two dogs of Hampstead, at the Reading Bull, for one guinea, to be spent; five lets goes out of hand; which goes fairest and farthest in wins all. The famous ball of fire-works, which pleased the gentry to admiration. Likewise there are two bear-dogs to jump three jumps apiece at the bear, which jumps highest for ten shillings, to be spent. Also variety of bull-baiting and bear-baiting; it being a day of general sport by all the old gamesters; and a bull-dog to be drawn up with fire-works. Beginning at three o'clock.”

“ At William Well’s bear-garden, in Tuttlefields, Westminster, this present Monday, there will be a *green* bull baited; and twenty dogs to fight for a collar; and the dog that runs farthest and fairest wins the collar; with other diversions of bull and bear-baiting. Beginning at two of the clock.” I fancy that a green bull must mean a fresh untried bull, one never before baited.

So much for bear and bull-baiting in and near the metropolis. It is, however, some comfort to find that these

cruel pastimes were not universally approved of. Robert Crowley, who was Vicar of St. Giles's, in Cripplegate, in the year 1551, and Archdeacon of Hereford, considered bear-baiting "a full onglye syghte," and with reference to the custom of paying the bearward a capitation fee of a half-penny he says—

" If you give it therefore  
 " To see a beare fyght,  
 " Be ye sure Goddes curse  
 " Wyl upon you lyght."

and he advises that the money should be bestowed on the poor.

A short reference to the subject of bear and bull-baiting in the country, as given by Strutt, may be here not out of place. He tells us that this cruel pastime was not confined to the boundaries of the bear gardens, but was universally practised on various occasions in almost every town or village throughout the kingdom, and especially in market towns, where we find it was sanctioned by the law, and in some of them, the bull rings to which the unfortunate animals were fastened are remaining to the present hour. It may seem strange that the Legislature should have permitted the exercise of such a barbarous diversion, which was frequently productive of much mischief by drawing together a large concourse of idle and dissipated persons, and affording them an opportunity of committing many gross disorders with impunity. In the City of London there existed in Stow's time a bye-law which prohibited the baiting of a bull, a bear, or A HORSE in the open streets, under a penalty of 20 shillings. Stow's

Survey, p. 666. And even in the country a public bull-baiting rarely-ended without some riot and confusion. A circumstance of this sort is recorded in the annals of the City of Chester. The author tells us that "a bull was baited at the high cross on the second of October, 1619, according to the ancient custome of the mayor's farewell out of his office. It chanced a contention fell out between the butchers and the bakers of the cittye aboute their dogges then fyghtynge; they fell to blowes, and in the tumult of manye people woulde not be pacifyed, so that the mayor, seeing there was great abuse, being citizens, could not forbear, but he in person hymself went out amongst them, to have the peace kept, but they in their rage, lyke rude and unbroken fellows, did lytill regarde hym. In the ende they were parted, and the begynners of the sayde brawle, being found out and examined, were committed to the Northgate. The mayor smotte freely among them and broke his white staffe, and the cryer, Thomas Knowsley, brake his mase, and the brawle ended." The author above alluded to was most likely Randal Holmes, the quotation, however, is from the Harl. MSS. 2125.

I should be curious to know what the views of a modern mayor of the old city would be on a riot of the above nature. I can myself testify that both bear and bull-baiting were carried on in Cheshire to some extent within the last 50 years. I well remember that a bull was regularly baited at the time of the wakes, at the village of Broken Cross, near Macclesfield, and I can also recollect being much disappointed and even surprised when I, a child of seven or eight years of age, was forbidden to go to see a

bear baited at the wakes of a village in which my father was the sole resident parson. The authorities of Congleton, also in Cheshire, are said to have sold the Church Bible to buy a bear to be baited, as I have already stated (*supra*, p. 35). I have, however, been, since the publication of the first edition of this work, informed that this is not quite accurate, but that they did in fact devote to the purchase of a bear certain money which had been subscribed, or set aside, for the purpose of buying a new Bible, the old one having become so illegible from age that the officiating minister was rarely able to obey the rubric by reading the appointed chapters. Let us hope this is vulgar slander.

Before entirely dismissing this subject, I propose to give my readers a short account of the very curious old custom of "Bull running," as practised at Stamford and Tutbury.

The information which I have collected on this custom would be amusing but for the intrinsic brutality in the conduct and manners of our fellow-countrymen which must be disclosed in the course of my narrative. Still it is impossible to avoid laughing outright when we come to certain passages which I am about to lay before my readers in the quaint phraseology of the writers whom I shall quote. I cannot find that bull-running was ever practised in any part of the kingdom, excepting at Stamford, in Lincolnshire, and at Tutbury, in Staffordshire. The traditional origin of the bull running at Stamford, and the mode in which it was performed in the seventeenth century, are given by Butcher in his survey of that town,

A.D. 1646; and this account I shall give in the author's own words:—

“ The Bull running is a sport of no pleasure, except to  
“ such as take a pleasure in beastliness and mischief; it  
“ is performed just the day six weeks before Christmas.  
“ The butchers of the town, at their own charge, against  
“ the time, provide the wildest bull they can get. This  
“ bull over night is had into some stable or barn be-  
“ longing to the alderman. The next morning, proclama-  
“ tion is made by the common bellman of the town, round  
“ about the same, that each one shut up their shop doors and  
“ gates, and that none, upon pain of imprisonment, offer to  
“ do any violence to strangers; for the preventing whereof,  
“ the town being a great thoroughfare, and then being  
“ term time, a guard is appointed for the passing of travellers  
“ through the same, without hurt; that none have any iron  
“ upon their bull-clubs, or other staff, which they pursue  
“ the bull with. Which proclamation made, and the gates  
“ all shut up, the bull is turned out of the alderman's house,  
“ and then hivy-skivy, tag-and-rag, men, women, and  
“ children, of all sorts and sizes, with all the dogs in the  
“ town, promiscuously running after him with their bull-  
“ clubs, spattering dirt in each others faces, that one would  
“ think them to be so many furies started out of hell for the  
“ punishment of Cerberus, &c. And which is the greater  
“ shame, I have seen persons of rank and family, of both  
“ sexes (*senatores majorum gentium et matronæ de*  
“ *eodem gradu*) following this bulling business. I can say  
“ no more of it, but only to set forth the antiquity thereof  
“ as tradition goes. William, Earl of Warren, the first lord

“ of this town in the time of King John, standing upon his  
“ castle walls in Stamford, saw two bulls fighting for a cow  
“ in a meadow under the same. A butcher of the town,  
“ owner of one of the bulls, set a great mastiff dog upon his  
“ own bull, who forced him up into the town, when all the  
“ butchers’ dogs, great and small, followed in pursuit of the  
“ bull, which by this time made stark mad with the noise  
“ of the people, and the fierceness of the dogs, ran over  
“ man, woman, and child, that stood in his way. This  
“ caused all the butchers and others in the town to rise up,  
“ as it were, in a kind of tumult. The sport so highly  
“ diverted the earl, who, it seems, was a spectator, that he  
“ gave all those meadows in which the two bulls had been  
“ fighting perpetually as a common to the butchers of the  
“ town, after the first grass is eaten, to keep their cattle in  
“ till the time of slaughter, upon the condition that, on the  
“ anniversary of that day, they should yearly find, at their  
“ own expense, a mad bull for the continuance of the sport.”

It would be interesting to ascertain how far and in what form this grant still exists—if indeed it does remain valid at Stamford.

The company of minstrels belonging to the manor of Tutbury had several peculiar privileges granted to them by a charter from John of Gaunt, Duke of Lancaster. This document is under his seal, dated August 24, in the 4th year of Richard II., and is addressed to “our well-beloved the King of the Minstrels” from the Castle of Tutbury, and gives him full power and commission to oblige and compel the minstrels to perform their services and minstrelries as in ancient times. (Dugdale’s Monas-



ticon, vol. 1, fol. 355.) In this charter it is required of the minstrels to perform their respective services upon the day of the Assumption of our Lady (the 15th of August), at the steward's court, held for the honour of Tutbury, according to ancient custom. They had also, it seems, a privilege, exclusive of the charter, to claim upon that day a bull from the prior of Tutbury. (*Histriones habebunt unum taurum de Priore de Tutbury*. Dugdale's *Monasticon*, vol. 2, p. 355, *Inspex. temp. Hen. VI.*) In the seventeenth century these services were performed the day after the Assumption; and the bull was given by the Duke of Devonshire, as the prior's representative. The historian of Staffordshire, Dr. Plott, informs us that "a dinner was provided for the minstrels upon this occasion, which being finished, they went anciently to the Abbey-gate, but of late years to a little barn by the town side, in expectance of the bull to be turned forth to them. The animal provided for this purpose had his horns sawed off, his ears cropped, his tail cut short, his body smeared with soap, and his nose blown full of beaten pepper, in order to make him as mad as it was possible for him to be. Whence, after solemn proclamation first being made by the steward, that all manner of persons should give way to the bull, and not come near him by forty feet, nor by any means to injure the minstrels, but to attend to his or their own safeties, every one at his merit; he was then put forth to be caught by the minstrels, and none other, within the county of Stafford, between the time of his being turned out to them, and the setting of the sun on the same day; which if they cannot doe, but the bull escapes from them



“ untaken, and gets over the river into Derbyshire, he continues to be Lord Devonshire’s property : on the other hand, if the minstrels can take him and hold him so long as to cut off but some small matter of his hair, and bring the same to the market cross in token that they have taken him ; the bull is brought to the bailiff’s house in Tutbury, and there collared and roped, and so conveyed to the bull-ring in the High-street, where he is baited with dogs ; the first course being allotted for the king, the second for the honour of the town, and the third for the king of the minstrels. This done, the minstrels claim the beast, and may sell, or kill, or divide him amongst them, according to their pleasure.” The author then adds, “ This rustic sport, which they call bull-running, should be annually performed by the minstrels only, but, now-a-days, they are assisted by the promiscuous multitude that flock thither in great numbers, and are much pleased with it, though sometimes, through the emulation in point of manhood that has been long cherished between the Staffordshire and Derbyshire men, perhaps as much mischief may have been done as in the bull-fighting practised at Valencia, Madrid, and other places in Spain.” The noise and confusion occasioned by this exhibition is aptly described in “ The Marriage of Robin Hood and Clorinda, Queen of Tutbury Feast,” a popular ballad published early in the last century, about 1723 :

“ Before we came to it we heard a strange shouting,  
“ And all that were in it looked madly ;  
“ For some were a bull-back, some dancing a morrice,  
“ And some singing Arthur O’Bradley.”

In the same ballad the following lines occur :

“ The battle was fought near to Titbury Town,  
“ When the bagpipes baited the bull;  
“ I am king of the fiddlers, and swear 'tis a truth,  
“ And I call him who doubts it a gull.”

I may bring this chapter to a conclusion by alluding very shortly to badger-baiting, for even this harmless and somewhat interesting animal has not escaped the brutality of man, and was formerly baited as savagely and with as much cruelty as were bulls and bears. I fear the “pastime” is scarcely extinct even now—under the comparatively humane form of what is called “drawing a badger” (out of a tub or barrel). In former days I find that, in order to give better effect to this diversion, a hole was dug in the ground for the retreat of the animal; “and,” says Strutt, “the dogs run at him singly in succession, for it “is not usual, I believe, to permit any more than one of “them to attack him at once, and the dog which approaches him with the least timidity, and fastens upon “him the most firmly, and brings him the soonest from “his hole, is accounted the best.” How it is managed in these days I really do not know, neither do I think that if I could give my readers any information on the subject they would care much to have it imparted to them; unless, indeed, they should share the opinion attributed to certain Puritans who thought that in baiting animals the sin consisted mainly “in that the pastime gives pleasure to the “beholder.”

CHAPTER XVIII.

Cock-fighting—Ancient and Modern.



## CHAPTER XVIII.

## COCK-FIGHTING—ANCIENT AND MODERN.

ON the subject of this pastime, which seems to have been most popular both in early and modern days, I do not propose to say much. It has been, for some reason or other, a very favourite amusement in all the quarters of the globe, and men appear to have availed themselves of the fighting propensities of birds for the purpose of obtaining enjoyment with the chance of risking their money from time immemorial.

The science of cock-fighting was brought to great perfection by both the Greeks and the Romans, and I may here refer such of my readers as are curious on the subject to the account of the sport given in Brand's "Popular Antiquities," edition of 1810, p. 374, also to the elaborate contribution of the Reverend Mr. Pegge (which contains a full explanation of the manner of cock-fighting among the ancient Greeks and Romans) to "The Archaeologia," vol. 3, p. 132.

Mr. Brand says, that cock-fighting was most probably introduced into this island by the Romans, and that the bird itself was here before Cæsar's arrival. One thing, however, is clear, that in Europe, Asia, Africa and

America, cock-fighting in one form or another has been, and, I fear, even now is, a most popular and fascinating pursuit. Whether, as Mr. Brand states, it was introduced into England by the Romans or not, Fitzstephen, who wrote in the time of Henry II., alludes to "cocking" as a "childish sport."

"Every year," says that author, "on the morning of Shrove-Tuesday, the schoolboys of the city of London bring game cocks to their masters, and in the fore part of the day, till dinner-time, they are permitted to amuse themselves by seeing them fight." (Description of London, temp. Hen. II.) Probably the same custom prevailed in other cities and great towns. Stow, having cited the preceding passage from Fitzstephen, adds, "Cocks of the game are yet," that is, at the close of the sixteenth century, "cherished by divers men for their pleasures, much money being laid on their heads, when they fight in pits, whereof some are costly made for that purpose." (Survey of London, p. 76.) The cock-pit was the school, and the master the controller and director of the pastime. "This custom," according to Mr. Brand, "was retained in many schools in Scotland within the last century, and perhaps may be still in use there; the schoolmasters claimed the runaway cocks as their perquisites; and these were called fugees, 'corrupt, I suppose,' says he, 'of refugees.'"

In the reign of Edward III., cock-fighting became a fashionable amusement. It was then taken up more seriously than it formerly had been, and the practice extended to grown persons; even at that early period it

began to be productive of pernicious consequences, and was therefore prohibited in 1366 by a public proclamation, in which it ranked with other idle and unlawful pastimes. But notwithstanding that it was thus degraded and discountenanced, it still maintained its popularity, and, in defiance of all temporary opposition, has descended to modern times. Among the additions made by Henry VIII. to the palace at Whitehall was a cock-pit, "which indicates his relish for the pastime of cock-fighting" (Stow's Survey, p. 496); and "James I. was so partial to this diversion that he amused himself in seeing it twice a week." (M. de la Boderie's Letters, vol. 1, p. 56.) Exclusive of the royal cock-pit, we are told there was formerly one in Drury Lane, another in Jewin Street, and, if the following story be founded on fact, a third in Shoe Lane. "Sir Thomas Jermin, meaning to make himself merry and gull all the cockers, sent his man to the pit in Shoe Lane with a hundred pounds and a dunghill cock, neatly cut and trimmed for the battle; the plot being well laid, the fellow got another to throw the cock in and fight him in Sir Thomas Jermin's name, while he betted his hundred pounds against him. The cock was matched, and bearing Sir Thomas's name, had many bets layed upon his head, but after three or four good brushes he showed a payre of heels. Everyone wondered to see a cock belonging to Sir Thomas cry *craven*, and away came the man with his money doubled." Harl. MSS., 6395, written temp. James I., entitled "Merry Passages and Jeasts." A jest possibly, but somehow we in these degenerate days should call it by a more ugly name.

In treating, as he does, very shortly of the subject of cock-fighting, Brand quotes Mr. Pegge as the "judicious author" of an account of what seems to have been called the "Welsh Main," which he very properly describes as "a disgrace to us as Englishmen." He says that "it consists of a certain or given number of pairs of cocks, suppose sixteen, which fight with each other until one half of them are killed. The sixteen conquerors are pitted a second time in like manner, and half are slain; the eight survivors a third time, the four a fourth time, and the remaining two a fifth time; so that thirty-one cocks are sure to be inhumanely murdered for the sport and pleasure of the spectators. I am informed that the Welsh main usually consists of fourteen pairs of cocks, though sometimes the number might be extended."

Strutt says, "In the old illuminated manuscripts we frequently meet with paintings representing cocks fighting, but I do not recollect to have seen in any of them the least indication of artificial spurs; the arming of their heels with sharp points of steel is a cruelty, I trust, unknown in former ages to our ancestors. I have been told the artificial spurs are sometimes made with silver." Unfortunately our author is too lenient in his judgment, for artificial spurs were used up to very recent times, and, I sadly fear, date from a very early period. The ancients fought partridges and quails, as well as cocks, in like manner, says Burton, as the French do now. I do not, however, think that their example has been followed in England.

Really, however, I must admit that I have found it



utterly impossible to give within a reasonable space any fair account of the sport or pastime of cock-fighting. To Mr. Brand and Mr. Pegge, and to the authorities quoted by those learned men, I refer my readers for much that can be told about cock-fighting, ancient and modern. Mr. Pierce Egan's multifarious writings on that and other sporting matters must not be overlooked, but, above all, I would refer my readers to the last few pages of Blaine's "Encyclopædia of Rural Sports," in which they will find all that they can wish for touching what must have been a most fascinating pastime. The truth is, that cock-fighting possesses a literature peculiarly its own, in English prose, in English poetry, in Latin prose, in Latin verse. How the birds were trained, trimmed, and armed with spurs; how "mains" were fought under the auspices of the Derby family at Knowsley; how, even within the last year or two, an attempt was made to fight a main of cocks on Delamere Forest, in Cheshire, resulting in the ignominious appearance before the justices of some of the choicest young swells of the county and the inevitable fine, it is not for me to tell. I only refer to the game or pastime as being illegal, and so as coming within the scope of my little work. It would require, in good sooth, a work at least as large (or as small) as this to exhaust the subject of cock-fighting, or "cocking," as it was often termed by our old writers.

Quails were, and I fancy are, fought in all the countries in which they are indigenous. They are most pugnacious little fellows, and in China, especially, their quarrelsome temperament is taken advantage of to the full extent. In

an illustrated work on that country, I, the other day, met with a charmingly-executed engraving by Alken, representing a fight between two quails on the quay at Canton, the half-naked bargemen backing the birds and betting on them, and the surrounding populace looking on in the most orthodox manner possible. These little creatures were actually armed with tiny silver spurs, so arranged as that the death of one or other of them would almost inevitably ensue from a well-delivered stroke.

So deeply implanted in the human mind is the rage for fighting, either by self or agent, and so strong is the spirit of gambling, that the Chinese have actually turned to advantage the combative spirit which exists in a certain cricket, grasshopper, or *gryllus*. They place these little animals in a bowl, and having stimulated their passions in some way known to themselves, but of which I am in perfect ignorance, they watch the combat which ensues, bet upon the result, shout, scream, and are as much excited as is the crowd on Epsom Downs when on the Derby-day the word is given "They'r off." Can there be a more sarcastic comment on what we are pleased to call sport?

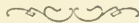


CHAPTER XIX.

Lion-Baiting.



CHAPTER XIX.  
LION-BAITING.



THE heading of this chapter may possibly surprise my readers, some of whom may be totally unaware that such a pastime ever prevailed, or that such an incident as is indicated even occurred in England. Prevail, in the ordinary sense of the word, it never did, but that lion-baits have taken place in our island is an indisputable fact.

In a statute to be hereafter referred to the noble animal is mentioned, and such statute forbids us to bait him. Therefore, I may be forgiven for devoting a chapter to "the king of beasts" as a baited and thus illegally-treated animal. I do not propose to refer to the palmy days of the Roman Emperors, or to the times when men "fought with beasts at Ephesus," but to proceed at once to the lion-baits which have been chronicled as having taken place in England, premising that no similar events can ever again occur in this country.

Seymour in his "Survey," A.D. 1610, says, that an attempt was made in the reign of King James I. to get up a fight between two lions, a bear, and six mastiffs, a horse was put into the cage, but the result was that the dogs directed all their fury against the latter, and the lions and the bear remained unconcerned.

Stow gives an account in his "Annals" of a contest said to have taken place in the presence of James I. and his son Prince Henry, in these words: "One of the dogs being put into the den was soon disabled by the lion, who took him by the head and neck and dragged him about. Another dog was then let loose and served in the same manner, but the third being put in immediately seized the lion by the lip and held him for a considerable time till, being severely torn by his claws, the dog was obliged to quit his hold, and the lion greatly exhausted by the conflict refused to renew the engagement, but taking a sudden leap over the dogs fled into the interior of his den. Two of the dogs soon died of their wounds, the third survived, and was taken great care of by the Prince, who said: 'He that had fought the king of beasts should never after fight with an inferior creature.'

All this was bad enough, but it remained for Englishmen in more recent and more civilized days to do worse. And I am now about to give my readers an account, compiled from the journals of the period, and softened down by alterations and omissions, of two of the most brutal, cruel and wicked transactions probably which ever took place within the memory of now existent men.

The piteous tale, for piteous tale it is, as told at the time, commences thus:—

#### " LION FIGHT.

" On Tuesday, the 26th of July, 1825, there was a

“ ‘fight,’ if so it might be called, between a lion and dogs,  
“ which is thus reported in the public journals :—

“ This extremely gratuitous, as well as disgusting,  
“ exhibition of brutality, took place at a late hour on  
“ Tuesday evening, at Warwick, and, except that it was  
“ even still more offensive and cruel than was anticipated,  
“ the result was purely that which had been predicted in  
“ the Times newspaper.

“ The show was got up in an extensive enclosure called  
“ the ‘Old Factory Yard,’ just in the suburbs of Warwick  
“ on the road towards Northampton, and the cage in  
“ which the fight took place stood in the centre of a  
“ hollow square formed on two sides by ranges of empty  
“ workshops, the windows of which were fitted up with  
“ planks on barrels as seats for the spectators, and in the  
“ remaining two by the whole of Mr. Wombwell’s wild  
“ ‘collection,’ as they have been on show for some days  
“ past arranged in their respective dens and travelling  
“ carriages.

“ In the course of the morning the dogs were shown  
“ for the fee of a shilling at a public-house, in Warwick,  
“ called the ‘Green Dragon.’ Eight had been brought  
“ over originally, but by a mistake of locking them up  
“ together on the preceding night they had fallen out  
“ among themselves and one had been killed entirely, a  
“ second escaping only with the loss of an ear and a portion  
“ of one cheek. The guardian of the beasts being rebuked  
“ for this accident declared he could not have supposed  
“ they would have fought each other, being ‘all on the

“ ‘ same side ;’ six, however, still remained in condition, as  
“ Mrs. Heidelberg expresses it, for the ‘ runcounter.’

“ The price of admission demanded in the first instance  
“ for the fight seemed to have been founded on very gross  
“ miscalculations. Three guineas were asked for seats at  
“ the windows in the first, second, and third floors of the  
“ unoccupied manufactory ; two guineas for seats on the  
“ fourth floor of this building ; one guinea for places at a  
“ still more distant point, and half a guinea for standing  
“ room in the square. The appearance of the cage when  
“ erected was rather fragile considering the furious  
“ struggle which was to take place within it. It mea-  
“ sured fifteen feet square, and ten feet high, the floor of  
“ it standing about six feet from the ground. The top as  
“ well as the sides was composed merely of iron bars,  
“ apparently slight, and placed at such a distance from  
“ each other that the dogs might enter or escape between,  
“ but too close for the lion to follow. Some doubts were  
“ expressed about the sufficiency of this last precaution,  
“ merely because a number of ‘ ladies,’ it was understood,  
“ would be present, but the ladies in general escaped that  
“ disgrace, for not a single female came, and at all events  
“ the attendant bear-wards swore in the most solemn way,  
“ that is to say, using a hundred imprecations instead of  
“ one, that the security of the whole was past a doubt.  
“ Towards afternoon the determination as to ‘ prices’  
“ seemed a little to abate ; and it was suspected that in  
“ the end the speculator would take whatever prices he  
“ could get. The fact became pretty clear, too, that  
“ no real match nor anything approaching to one was



“ pending, because the parties themselves in their printed  
“ notices did not settle any circumstances satisfactorily  
“ under which the contest could be considered as con-  
“ cluded.

“ Wheeler, Mr. Martin’s agent, who had come down  
“ on Monday, applied to the local authorities to stop the  
“ exhibition, but the mayor and, afterwards as we under-  
“ stood, a magistrate of the name of Wade declined inter-  
“ fering, on the ground that, under Mr. Martin’s present  
“ Act (3 Geo. 4, c. 71), no steps could be taken before the  
“ act constituting ‘cruelty’ had been committed. A gentle-  
“ man, a Quaker, who resides near Warwick, also went  
“ down to the menagerie in person to remonstrate with  
“ Mr. Wombwell; but against the hopes of letting seats  
“ at ‘three guineas’ a-head, of course, his mediation could  
“ have very little chance of success.

“ In the meantime the unfortunate lion lay in a caravan  
“ by himself all day, in front of the cage in which he was  
“ to be baited, surveying the preparations for his own  
“ annoyance with great simplicity and apparent good  
“ humour, and not at all discomfited by the notice of the  
“ numerous persons who came to look at him. In the  
“ course of the day the dogs who were to fight were  
“ brought into the menagerie in slips, it being not the  
“ least singular feature of this combat that it was to take  
“ place immediately under the eyes of an immense host of  
“ wild beasts of all descriptions (not including the human  
“ spectators); three other lions; a she-wolf with cubs;  
“ a hyena; a white bear; a lioness; two female leopards  
“ with cubs; two zebras, male and female; a large

“ assortment of monkeys; and two wild asses; with a  
“ variety of other interesting foreigners, being arranged  
“ within a few yards of the grand stand.

“ These animals, generally, looked clean and in good  
“ condition; and were (as is the custom of such creatures  
“ when confined) perpetually in motion; but the dogs  
“ disappointed expectation—they were very little excited  
“ by the introduction. They were strong, however, and  
“ lively; crossed apparently, the majority of them between  
“ the bull and the mastiff breed, one or two showed a  
“ touch of the lurcher, a point in the descent of fighting  
“ dogs which is held to give an increased capacity of  
“ mouth. The average weight of those which fought was  
“ from about five and thirty to five and forty pounds  
“ each; one had been brought over that weighed more  
“ than sixty, but he was on some account or other excluded  
“ from the contest.

“ The cub leopards were ‘fine darling little creatures,’  
“ as an old lady observed in the morning, fully marked  
“ and coloured, and about the size of a two months’ old  
“ kitten. The young wolves had a haggard, cur-like  
“ look, but were so completely like sheep-dog puppies,  
“ that a mother of that race might have suckled them for  
“ her own. A story was told of the lion ‘Nero’ having  
“ already had a trial in the way of ‘give and take,’ with  
“ a bull bitch who had attacked him, but at the first onset  
“ been bitten through the throat. The bitch was said to  
“ have been got off by throwing meat to the lion; and if  
“ the account were true the result was only such as with  
“ a single dog against such odds might reasonably have

“ been expected. Up to a late hour of the day, the  
“ arrival of strangers was far less considerable than had  
“ been anticipated ; and doubts were entertained whether,  
“ in the end, the owner of the lion would not declare off.  
“ At a quarter past seven, however, in the evening from  
“ about four to five hundred persons of different descrip-  
“ tions being assembled, preparations were made for  
“ commencing.

#### “ THE COMBAT.

“ The dens which contained the animals on show were  
“ covered in with shutters ; the lion’s travelling caravan  
“ was drawn close to the fighting cage, so that a door  
“ could be opened from one into the other ; and the keeper  
“ Wombwell, then going into the travelling caravan, in  
“ which another man had already been staying with the lion  
“ for some time, the animal followed him into the cage as  
“ tamely as a Newfoundland dog. The whole demeanor  
“ of the beast indeed was so quiet and generous that at his  
“ first appearance it became very much doubted whether  
“ he would attempt to fight at all. While the multitude  
“ shouted, and the dogs were yelling in the ground below,  
“ he walked up and down his cage, Wombwell still  
“ remaining in it, with the most perfect composure, not at  
“ all angered, or even excited, but looking with apparently  
“ great curiosity at his new dwelling and the objects  
“ generally about him, and there can hardly be a question  
“ that during the whole contest, such as it turned out, any  
“ one of the keepers might have remained close to him  
“ with entire safety.

“ Wombwell, however, having quitted the cage, the  
“ first relay of dogs was laid on. These were a fallow-  
“ coloured dog, a brown with white legs, and a third  
“ brown altogether—averaging about forty pounds in  
“ weight a-piece, and described in the printed papers  
“ which were distributed by the names of Captain, Tiger,  
“ and Turk. As the dogs were held for a minute in slips  
“ upon the inclined plane which ran from the ground to  
“ the stage, the lion crouched on his belly to receive  
“ them; but with so perfect an absence of anything like  
“ ferocity, that many persons were of opinion he was  
“ rather disposed to play, at all events the next moment  
“ showed clear that the idea of fighting or doing mischief  
“ to any living creature never had occurred to him. At  
“ the first rush of the dogs, which the lion evidently had  
“ not expected, and did not at all know how to meet, they  
“ all fixed themselves upon him, but caught only by the  
“ dewlap and the main. With a single effort he shook  
“ them off, without attempting to return the attack. He  
“ then flew from side to side of the cage, endeavouring to  
“ get away, but in the next moment the assailants were upon  
“ him again, and the brown dog Turk seized him by the  
“ nose while the two others fastened at the same time on  
“ the fleshy part of his lips and under jaw. The lion  
“ then roared dreadfully, but evidently only from the pain  
“ he suffered; not at all from anger. As the dogs hung  
“ to his throat and head, he pawed them off by sheer  
“ strength, and in doing this and in rolling upon them did  
“ them considerable mischief; but it amounts to a most  
“ curious fact, that he never once bit or attempted to bite

“ during the whole contest, or seemed to have any desire to  
“ retaliate any of the punishment which was inflicted upon  
“ him. When he was first pinned, for instance (to use  
“ the phrasology of the bear-garden), the dogs hung to  
“ him for more than a minute, and were drawn holding  
“ to his nose and lips several times round the ring.  
“ After a short time roaring tremendously he tore them  
“ off with his claws, mauling two, a good deal in the  
“ operation, but still not attempting afterwards to act on  
“ the offensive. After about five minutes fighting, the  
“ fallow-coloured dog was taken away lame and apparently  
“ much distressed, and the remaining two continued the  
“ combat alone ; the lion still working only with his paws  
“ as though seeking to rid himself of a torture, the nature  
“ of which he did not well understand. In two or three  
“ minutes more, the second dog Tiger, being dreadfully  
“ maimed, crawled out of the cage, and the brown dog  
“ Turk, which was the lightest of the three, but of  
“ admirable courage, went on fighting by himself. A  
“ most extraordinary scene then ensued, the dog left  
“ entirely alone with an animal of twenty times its weight  
“ continued the battle with unabated fury, and though  
“ bleeding all over from the effect of the lion’s claws,  
“ seized and pinned him by the nose, at least half a dozen  
“ times, when at length releasing himself by a desperate  
“ effort, the lion flung his whole weight upon the dog and  
“ held him lying between his fore paws for more than  
“ a minute, during which time he could have bitten his  
“ head off a hundred times over, but did not make the  
“ slightest effort to hurt him. Poor Turk was then taken

“ away by the dog-keepers, grievously mangled but still  
“ alive, having seized the lion for at least the twentieth  
“ time the very same moment that he was released from  
“ under him.

“ It would be tiresome to go at length into the detail  
“ of the ‘second fight,’ as it was called, which followed  
“ this; the undertaking being to the assembly—for the  
“ notion of ‘match’ now began to be too obvious a  
“ humbug to be talked about—that there should be two  
“ onsets, at twenty minutes interval, by three dogs at  
“ each time. When the last dog of the first set, Turk,  
“ was removed, poor Nero’s temper was just as good as  
“ before the affair began. The keeper Wombwell went  
“ into the cage instantly and alone, carrying a pan of  
“ water, with which he first sluiced the animal, and then  
“ offered him some to drink. After a few minutes the  
“ lion laid down, rubbing the parts of his head which had  
“ been torn (as a cat would do) with his paw; and  
“ presently a pan of fresh water being brought, he lapped  
“ out of it for some moments, while a second keeper  
“ petted and caressed him through the iron grate. The  
“ second combat presented only a repetition of the bar-  
“ barities committed in the first, except that it completely  
“ settled the doubt, if any existed, as to a sum of money  
“ being depending. In throwing water upon the lion, a  
“ good deal had been thrown upon the stage. This made  
“ the floor of course extremely slippery; and so far it was  
“ a very absurd blunder to commit. But the second set  
“ of dogs let in being heavier than the first, and the lion  
“ more exhausted, he was unable to keep his footing on

“ the wet boards, and fell in endeavouring to shake them off,  
“ bleeding freely from the nose and head, and evidently in a  
“ fair way to be seriously injured. The dogs, all three, seized  
“ him on going in, and he endeavoured to get rid of them  
“ in the same way as before, using his paws, and not  
“ thinking of fighting, but not with the same success. He  
“ fell now and showed symptoms of weakness, upon which  
“ the dogs were taken away. This termination, however,  
“ did not please the crowd, who cried out loudly that the  
“ dogs were not beaten. Some confusion then followed;  
“ after which the dogs were again put in, and again seized  
“ the lion, who by this time, as well as bleeding freely from  
“ the head, appeared to have got a hurt in one of his fore  
“ feet. At length the danger of mischief becoming press-  
“ ing, and the two divisions of the second combat having  
“ lasted about five minutes, Mr. Wombwell announced  
“ that he gave up on the part of the lion; and the exhibi-  
“ tion was declared to be at an end.”

“ The first struggle between the lion and his assailants  
“ lasted about eleven minutes, and the last something less  
“ than five; but the affair altogether wanted even the  
“ savage interest which generally belongs to a common  
“ bull or bear-bait. For, from the beginning of the  
“ matter to the end, the lion was merely a sufferer—he  
“ never struck a blow. The only picturesque point which  
“ could present itself in such a contest would have been  
“ the seeing an animal like the lion in a high state of fury  
“ and excitation; but before the battle began we felt  
“ assured that no such event would take place; because  
“ the animal in question had not merely been bred up in



“ such a manner as would go far to extinguish all natural  
“ disposition to ferocity, but the greatest pains had been  
“ taken to render him tame and gentle and submissive.  
“ Wombwell, the keeper, walked about in the cage with  
“ the lion at least as much at his ease as he could have  
“ done with any one of the dogs who were to be matched  
“ against him. At the end of the first combat, the very  
“ moment the dogs were removed, he goes into the cage  
“ and gives him water. At the end of the last battle,  
“ while he is wounded and bleeding, he goes to him again  
“ without the least hesitation. Wombwell must have  
“ known to certainty that the animal’s temper was not  
“ capable of being roused into ferocity. It might admit,  
“ perhaps, of some question, whether the supposed un-  
“ tameable nature of many wild animals is not something  
“ overrated: and whether it would not be the irresistible  
“ strength of a domestic lion (in case he should become  
“ excited) that could render him a dangerous inmate  
“ rather than any probability that he would easily become  
“ furious, but as regards the particular animal in question,  
“ and the battle which he had to fight, he evidently had  
“ no understanding of it, no notion that the dog was his  
“ enemy. A very large dog, the property of a gentleman  
“ in Warwick, was led up to his caravan on the day before  
“ the fight; this dog’s appearance did not produce the  
“ slightest impression upon him. So, with the other wild  
“ beasts of Wombwell’s collection, who were shown to  
“ the fighting dogs, as we observed above, on the morning  
“ of Tuesday, not one of them appeared to be roused by  
“ the meeting in the smallest degree. A common house



“ cat would have been on the *qui vive* and *aux mains*, too, probably, in a moment. All the contest that did take place arose out of the fact that the dogs were of a breed too small and light to destroy an animal of the lion’s weight and strength, even if he did not defend himself. It was quite clear from the moment when the combat began that he had no more thought or knowledge of fighting than a sheep would have had under the same circumstances. His absolute refusal to bite is a curious fact; he had evidently no idea of using his mouth or teeth as a means for his defence. The dogs, most of them, showed considerable game; the brown dog, Turk, perhaps, as much as ever was exhibited, and none of them seemed to feel any of that instinctive dread or horror which some writers have attributed to dogs in the presence of a lion.

“ It would be a joke to say anything about the feelings of any man who, for the sake of pecuniary advantage, could make up his mind to expose a noble animal which he had bred, and which had become attached to him, to a horrible and lingering death. About as little reliance we should be disposed to place upon any appeal to the humanity of those persons who make animal suffering, in the shape of dog-fighting, bear-baiting, &c., a sort of daily sport, an indemnification, perhaps, for the not being permitted to torture their fellow-creatures. But, as probably a number of persons were present at this detestable exhibition which we have been describing, who were attracted merely by its novelty, and would be as much disgusted as we ourselves were with its details, we re-

“ commend their attention to the following letter, which a  
 “ gentleman, a member of the Society of Friends, who  
 “ applied personally to Mr. Wombwell to omit the per-  
 “ formance, delivered to him as expressive of his own  
 “ opinions upon the question and those of his friends. Of  
 “ course, addressed to such a quarter, it produced no effect;  
 “ but it does infinite credit both to the head and heart  
 “ of the writer, and contains almost everything that, to  
 “ honourable and feeling men, need be said upon such a  
 “ subject.

“ ‘ Friend, I have heard with a great deal of horror of  
 “ ‘ an intended fight between a lion that has long been ex-  
 “ ‘ hibited by thee, consequently has long been under thy  
 “ ‘ protection, and six bull dogs. I seem impelled to write  
 “ ‘ to thee on the subject, and to entreat thee, I believe  
 “ ‘ in Christian love, that whatever may be thy hope of  
 “ ‘ gain by this very cruel and very disgraceful exhibition  
 “ ‘ thou wilt not proceed. Recollect that they are God’s  
 “ ‘ creatures, and we are informed by the Holy Scriptures  
 “ ‘ that not even a sparrow falls to the ground without his  
 “ ‘ notice; and as this very shocking scene must be to  
 “ ‘ gratify a spirit of cruelty as well as a spirit of gambling  
 “ ‘ —for it is asserted that large sums of money are  
 “ ‘ wagered on the event of the contest—it must be  
 “ ‘ marked with Divine displeasure. Depend upon it  
 “ ‘ that the Almighty will avenge the sufferings of his  
 “ ‘ tormented creatures on their tormentors; for although  
 “ ‘ he is a God of love, he is also a God of justice; and I  
 “ ‘ believe that no deed of cruelty has ever passed un-

“ ‘ punished. Allow me to ask thee how thou wilt endure  
“ ‘ to see the noble animal thou hast so long protected,  
“ ‘ and which has been in part the means of supplying  
“ ‘ thee with the means of life, mangled and bleeding  
“ ‘ before thee? It is unmanly, it is mean and cowardly,  
“ ‘ to torment anything that cannot defend itself—that  
“ ‘ cannot speak to tell its pains and sufferings—that can-  
“ ‘ not ask for mercy. Oh, spare thy poor lion the pangs  
“ ‘ of such a death as may perhaps be his—save him from  
“ ‘ being torn to pieces—have pity on the dogs that may  
“ ‘ be torn by him. Spare the horrid spectacle—spare  
“ ‘ thyself the suffering that I fear will yet reach thee if  
“ ‘ thou persist—show a noble example of humanity.  
“ ‘ Whoever have persuaded thee to expose thy lion to the  
“ ‘ chance of being torn to pieces, or of tearing other  
“ ‘ animals, are far beneath the brutes they torment, are  
“ ‘ unworthy the name of man, or rational creatures.  
“ ‘ Whatever thou mayest gain by this disgraceful exhi-  
“ ‘ bition will, I fear, prove like a canker-worm among  
“ ‘ the rest of thy substance. The writer of this most  
“ ‘ earnestly entreats thee to refrain from the intended  
“ ‘ evil, and to protect the animals in thy possession from  
“ ‘ all unnecessary suffering. The practice of benevolence  
“ ‘ will afford thee more true comfort than the possession  
“ ‘ of thousands. Remember that he who gave life did  
“ ‘ not give it to be the sport of cruel man; and that he  
“ ‘ will assuredly call man to account for his conduct  
“ ‘ towards his dumb creatures. Remember, also, that  
“ ‘ cowards are always cruel, but the brave love mercy and  
“ ‘ delight to save. With sincere desire for the preserva-

“ ‘ tion of thy honour, as a man of humanity and for thy  
 “ ‘ happiness and welfare, I am thy friend,

S. HOARE.’

Mr. Hoare’s letter with the particulars of this brutal transaction, thus far, are from the “Times,” and in a leader in that paper the following passages occur:

“ With great sincerity we offered a few days ago our  
 “ earnest remonstrance against the barbarous spectacle  
 “ then preparing, and since, in spite of every better  
 “ feeling, indulged—we mean the torture of a noble lion  
 “ with the full consent, and for the profit, of a mercenary  
 “ being, who had gained large sums of money by hawking  
 “ the poor animal about the world and exhibiting him.  
 “ It is in vain, however, to make any appeal to humanity  
 “ where none exists, or to expatiate on mercy, justice and  
 “ retribution hereafter when those whom we strive to  
 “ influence have never learned that language in which  
 “ alone we can address them.

“ Little more can be said upon this painful and de-  
 “ grading subject, beyond a recollection of the occurrence  
 “ itself, which was more our wish than our hope to have  
 “ prevented. Nothing, at least, could be so well said by  
 “ any other person as it has by a humane and eloquent  
 “ member of the Society of Friends, in his excellent  
 “ though unavailing letter to Wombwell. What must  
 “ have been the texture of that mind, on which such  
 “ sentiments could make no impression?”

On perusing in fair type the above narrative I am half disposed to cancel this chapter entirely. It may, however,

be interesting to my readers to read passages from other accounts of the same transaction taken from the journals of the day, the editors of which, no matter what their politics, were absolutely unanimous in execrating the whole proceeding. Of course, a fight between a lion and dogs was an important event, taking men back to the days of James I. of happy memory ; but as no similar exhibition can ever again take place in this country, I shall, I trust, be excused for giving a few extracts from the leading prints of the day and for adverting shortly to the Baiting of the Lion "Wallace," which, to the shame of his owner, took place shortly after poor Nero's defeat.

With reference to Nero's match the Morning Herald says:—"For several months the country has been amused "with notices that a fight between a lion and dogs was "intended, and time and place were more than once appointed. This had the desired effect, making the lion "an object of great attraction in the provincial towns, and "a golden harvest was secured by showing him at two "shillings a-head. The next move was to get up such a "fight as would draw all the world from London as well "as from the villages to fill places marked at one or two "guineas each to see it, and lastly, to find dogs of such "weight and inferior quality as to stand no chance before "an enraged lion, thus securing the lion from injury and "making him still a greater lion than before, or that the "world ever saw, to be exhibited as the wonderful animal "that beat six British bred mastiffs. The repeated dis- "appointments as to time and place led people to conclude

“ that the affair was altogether a hoax, and the magnitude  
“ of the stake of 5,000*l.* said to be at issue, was so far out  
“ of any reasonable calculation that the whole was looked  
“ upon as a fabrication, and the majority became incredu-  
“ lous on the subject. Nay, the very persons who saw the  
“ lion and the dogs, and the stage, disbelieved even to the  
“ last moment that the fight was in reality intended. But  
“ the proprietor of the concern was too good a judge to  
“ let the flats altogether escape him, though his draft was  
“ diminished from having troubled the waters too much.  
“ Wombwell, the proprietor, as the leader of a collection of  
“ wild beasts may be excused for his proficiency in trickery,  
“ which is the essence and spirit of his calling ; but we think  
“ him accountable as a man for his excessive cruelty in ex-  
“ posing a poor animal that he has reared himself and made  
“ so attached that it plays with him and fondles him like  
“ a spaniel, that has never been taught to know his own  
“ powers or the force of his savage nature, to the attacks  
“ of dogs trained to blood and bred for fighting. The  
“ lion, now five years old, was whelped in Edinburgh, and  
“ has been brought up with so much softness that it  
“ appears as inoffensive as a kitten, and suffers the attend-  
“ ants of the menagerie to ride upon its back or to sleep  
“ in its cage. Its nature seems to be gentleness itself, and  
“ its education has rendered it perfectly domestic and de-  
“ prived it of all savage instinct. In the only experiment  
“ made upon its disposition, he turned from a dog, which  
“ had been run at him and on which he had fastened, to a  
“ piece of meat which was thrown into the cage. Nero  
“ is said to be one of the largest lions ever exhibited, and

“ certainly a finer or more noble looking animal cannot be  
“ imagined.

“ Wombwell announced in his posting bills at Birmingham, Coventry, Manchester, and all the neighbouring  
“ towns that the battle was to be for 5,000*l.*, but communicated by way of secret that in reality it was but 300*l.*  
“ aside, which he asserted was made good with the owner  
“ of the dogs on Monday night at the Bear, in Warwick,  
“ but who the owner of the dogs was or the maker of the  
“ match it was impossible to ascertain ; and, though well  
“ aware of the impropriety of doubting the authority of  
“ the keeper of the menagerie, we must admit that our  
“ impression is that no match was made, that no wagers  
“ were laid, and that the affair was got up for the laudable  
“ purpose hinted at in the commencement of this notice.  
“ The dogs, to be sure, were open to the inspection of the  
“ curious on Monday, and a roughcoated, gamekeeping,  
“ butcherlike, honest, ruffianly person from the north  
“ announced himself as their ostensible friend on the  
“ occasion, but by whom employed he was unwilling to  
“ declare. His orders were to bring the dogs to ‘ the  
“ scratch,’ and very busy we saw him preparing them for  
“ slaughter, and anointing the wounds of one little bitten  
“ animal that got its head laid open in the course of the  
“ night, while laudably engaged in mangling the throat  
“ and forcing out the windpipe of one of its companions,  
“ near whom it had unfortunately been chained. The  
“ other dogs were good-looking savage vermin averaging  
“ about 40 lbs. weight, one of them being less than 30 lbs.,  
“ and the largest not over 60 lbs. Four were described



“ as real bull dogs, and the other bull and mastiff crossed.  
“ The keeper said they were quite equal to the work; but,  
“ to one not given to the fancy dog line, they appeared  
“ quite unequal to attack and master a lion many times  
“ as large as all the curs put together. Wedgbury, a  
“ person well known in London for his breed of dogs,  
“ brought down one over 70 lbs., of most ferocious and  
“ villanous aspect, with the intention of entering him for  
“ a run, but it was set aside by Wombwell; thus afford-  
“ ing another proof that Wombwell had the whole concern  
“ in his hands, and selected dogs unable from their weight  
“ or size to do a mortal injury to his lion.

“ Wombwell appointed seven in the evening as the  
“ hour of combat. Accommodations were prepared for  
“ about a thousand people, but owing to the frequent dis-  
“ appointments, and to the exorbitant prices demanded,  
“ not more than two hundred and fifty persons appeared  
“ willing or able to pay for the best places, and about as  
“ many more admitted on the ground. The charge to  
“ the former was reduced to two guineas and one guinea,  
“ and to the latter from half a guinea to 7s. 6d. About  
“ 400*l.* was collected, from which, deducting 100*l.* for ex-  
“ penses, 300*l.* was cleared by the exhibition, a sum  
“ barely the value of the lion if he should lose his life in  
“ the contest. The cages in which the other beasts were  
“ confined were all closed up. It was well understood  
“ that no match had really been made, and consequently  
“ no betting of consequence took place, but among a few  
“ countrymen, who, contrasting the size of the lion with  
“ the dogs, backed him at 2 to 1.



“ Wombwell, having no longer the fear of the law before  
 “ him (see p. 237 supra), proceeded to complete his en-  
 “ gagements, and distributed the following bills :—

“ ‘ THE LION FIGHT.

“ ‘ The following are the conditions under which the  
 “ ‘ combat between Nero and the dogs will be decided :—

“ ‘ 1st. Three dogs are at once to be slipped at him.

“ ‘ 2nd. If one or any of them turn tail, he or they are  
 “ ‘ to be considered as beaten, and no one of the other  
 “ ‘ remaining three shall be allowed to attack him until  
 “ ‘ twenty minutes shall be expired, in order to give Nero  
 “ ‘ rest; for he must be allowed to beat the first three, one  
 “ ‘ by one, or as he may choose before the remaining three  
 “ ‘ shall be started.

“ ‘ After the expiration of the stipulated time, the  
 “ ‘ remaining three dogs are to start according to the  
 “ ‘ foregoing rules, and be regulated as the umpires shall  
 “ ‘ adjudge.

“ ‘ The dogs to be handled by Mr. Edwards, John  
 “ ‘ Jones, and William Davis, assisted by Samuel Wedg-  
 “ ‘ bury.

“ ‘ 1. Turk, a brown coloured dog; 2. Captain, a  
 “ ‘ fallow and white dog, with skewbald face; 3. Tiger, a  
 “ ‘ brown dog with white legs; 4. Nettle, a little brindled  
 “ ‘ bitch, with black head; 5. Rose, a skewbald bitch;  
 “ ‘ 6. Nelson, a white dog with brindled spots.’

“ The place chosen for the exhibition was, as we have  
 “ said, the yard of a large factory, in the centre of which  
 “ an iron cage, about fifteen feet square, elevated five feet

“ from the ground, was fixed as the place of combat.  
“ This was secured at top by strong open ironwork, and  
“ at the sides by wrought-iron bars, with spaces sufficient  
“ between to admit the dogs, and an ascending platform  
“ for them to run up. Temporary stations were fixed at  
“ the windows of the factory and all round the yard, and  
“ the price for these accommodations named at the out-  
“ rageous charge of three guineas for the best places, two  
“ guineas for the second, one for the third, and half a  
“ guinea for standing on the ground. Though the place  
“ was tolerably well fitted up, it fell far short of what the  
“ mind conceived should be the arena for such a combat;  
“ but Mr. Wombwell cared not a jot for the pleasures of  
“ the imagination, and counted only the golden sovereign  
“ to which every deal board would be turned in the course  
“ of the day, while his whole collection of wild beasts,  
“ lions, tigresses, and wolves, with their whelps and cubs,  
“ apes and monkeys, make up a goodly show, and roared  
“ and grinned in concert, delighted with the bustle about  
“ them, as if in anticipation of the coming fun.”

The Morning Chronicle says :—“ The place chosen for  
“ the combat was the factory yard, in which the first stage  
“ was erected for the fight between Ward and Cannon.  
“ This spot, which was, in fact, extremely well calculated  
“ for the exhibition, was now completely enclosed. We  
“ formerly stated that two sides of the yard were formed  
“ by high buildings, the windows of which looked upon  
“ the area; the vacant spaces were now filled up by  
“ Mr. Wombwell’s collection of wild beasts, which were  
“ openly exposed in their respective cages, on the one side,

“ and by paintings and canvas on the other, so that, in  
“ fact, a compact square was formed, which was securely  
“ hidden from external observation. There was but one  
“ door of admission, and that was next the town. Upon  
“ the tops of the cages seats were erected in amphi-  
“ theatrical order; and for accommodation here one  
“ guinea was charged. The higher prices were taken for  
“ the windows in the factories, and the standing places  
“ were ten shillings each. The centre of the square was  
“ occupied by the den, a large iron cage, the bars of which  
“ were sufficiently far asunder to permit the dogs to pass  
“ in and out, while the caravan in which Nero was usually  
“ confined was drawn up close to it. The den itself was  
“ elevated upon a platform, fixed on wheels about four  
“ feet from the ground, and an inclined plane formed of  
“ thick planks was placed against it, so as to enable the  
“ dogs to rush to the attack. It was into this den that  
“ Nero was enticed to be baited. Wombwell's trumpeters  
“ then went forth, mounted on horses and in gaudy array,  
“ to announce the fight, which was fixed to take place  
“ between five and seven in the evening. They travelled  
“ to Leamington and the adjacent villages, but to have  
“ done good they should have gone still further, for all  
“ who ventured from a distance on speculation announced  
“ that those they left behind fully believed that their  
“ labour would be in vain.

“ The dogs attracted a good deal of curiosity. They  
“ took up their quarters at the Green Dragon, where they  
“ held a levée, and a great number of persons paid sixpence  
“ each to have an opportunity of judging of their quality,

“ and certainly, as far as appearance went, they seemed  
 “ capable of doing much mischief.

“ On Tuesday morning several persons were admitted  
 “ to the factory to see the preparations, and at about ten  
 “ o’clock the dogs were brought in. They seemed per-  
 “ fectly ready to quarrel with each other, but did not  
 “ evince any very hostile disposition either towards Nero,  
 “ who from his private apartment eyed them with great  
 “ complacency, or towards the other lion and lionesses by  
 “ whom they were surrounded, and who, as it were,  
 “ taunted them by repeated howlings, in which Nero  
 “ joined chorus with his deep and sonorous voice. The  
 “ cruelty of unnecessarily exposing such an animal to tor-  
 “ ture naturally produced severe comments; and among  
 “ other persons a Quaker, being in the town of Warwick,  
 “ waited upon Mr. Wombwell on Tuesday morning with  
 “ Mr. Hoare’s letter, which he said he had received twenty  
 “ miles from the town. However well meant this letter  
 “ was, and that it arose in the purest motives of Christian  
 “ charity no man could doubt, with Mr. Wombwell it had  
 “ no effect. He looked at his preparations, he looked at  
 “ his lion, and then he cast a glance forward to his profits,  
 “ and then shook his head.

“ The pain of the lion was to be Wombwell’s profit;  
 “ and between agony to the animal and lucre to himself  
 “ the showman did not hesitate.”

#### WOMBWELL’S SECOND LION-BAIT.

Both the *Herald* and the *Chronicle* give descriptions of the baiting of Nero, but I see no reason for reiterating the

story already complete as compiled from *The Times*, and at once proceed to shortly describe with the aid of materials taken from the latter newspaper.

“Determined not to forego a shilling which could be obtained by the exposure of an animal to torture” (says Hone, ‘Every-day Book,’ vol. i. p. 993), “Wombwell in the same week submitted another of his lions to be baited.”

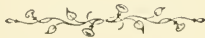
*The Times*, after a forcible expression of “disgust and indignation at the cruelty of the spectacle, and the supineness of the magistracy,” proceeds thus:—“Wombwell has, notwithstanding the public indignation which accompanied the exposure of the lion Nero to the six dogs, kept his word with the lovers of cruel sports by a second exhibition. He matched his “Wallace,” a fine lion, cubbed in Scotland, against six of the best dogs that could be found. Wallace’s temper is the very opposite to that of the gentle Nero. It is but seldom that he lets even his feeders approach him, and he soon shows that he cannot reconcile himself to familiarity from any creature not of his own species. Towards eight o’clock the factory yard was well attended at 5s. each person, and soon after the battle commenced. The lion was turned from his den to the same stage on which Nero fought. The match was,—1st. Three couples of dogs to be slipped at him, two at a time: 2nd. Twenty minutes or more, as the umpires should think fit, to be allowed between each attack: 3rd. The dogs to be handed to the cage once only,—Tinker, Ball, Billy, Sweep, Turpin, Tiger.

## “ THE FIGHT.

“ In the first round Tinker and Ball were let loose and  
“ both made a gallant attack, the lion having waited for  
“ them as if aware of the approach of his foes. He showed  
“ himself a forest lion, and fought like one. He clapped  
“ his paw upon poor Ball, took Tinker in his teeth, and  
“ deliberately walked round the stage with him as the cat  
“ would with a mouse. Ball, released from the paw,  
“ worked all he could, but Wallace treated his slight  
“ punishment by a kick now and then. He at length  
“ dropped Tinker, and that poor animal crawled off the  
“ stage as well as he could. The lion then seized Ball by  
“ the mouth and played precisely the same game with him  
“ as if he had actually been trained to it. Ball would  
“ have almost been devoured, but his second got hold of  
“ him through the bars and hauled him away. Turpin,  
“ a London, and Sweep, a Liverpool dog, made an  
“ excellent attack, but it was three or four minutes before  
“ the ingenuity of their seconds could get them on. Wal-  
“ lace squatted on his haunches and placed himself erect  
“ at the slope where the dogs mounted the stage, as if he  
“ thought they dared not approach. The dogs when on  
“ fought gallantly, but both were vanquished in less than  
“ a minute after their attack. The London dog bolted  
“ as soon as he could extricate himself from the lion’s  
“ grasp, but Sweep would have been killed on the spot  
“ but he was released. Wedgbury untied Billy and  
“ Tiger, casting a most piteous look upon the wounded  
“ dogs around him. Both went to work ; Wallace seized

“ Billy by the loins, and when shaking him, Tiger having  
“ run away, Wedgbury cried out ‘ There, you see how  
“ ‘ you’ve gammoned me to have the best dog in Eng-  
“ ‘ land killed!’ Billy, however, escaped with his life, he  
“ was dragged through the railing after having received  
“ a mark in the loins which (if he recovers at all) will  
“ probably render him unfit for any future contest. The  
“ victory of course was declared in favour of the lion.  
“ Several well-dressed women viewed the contest from the  
“ upper apartment of the factory. Women !”

*Ohé jam satis.*—Of the more noble beasts I know not which to pity most, the lions or the dogs; of the inferior brutes I know not which to execrate most, the owner of the lions or the backers and owners of the dogs.







CHAPTER XX (AND LAST).

Comprising a Summary of the Contents of the  
whole Work, and the Author's Farewell.



## CHAPTER XX. (AND LAST).

### COMPRISING A SUMMARY OF THE CONTENTS OF THE WHOLE WORK AND THE AUTHOR'S FAREWELL.

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I HAVE now almost brought my task to a conclusion. In my first ten chapters I have treated of games which have been made illegal by proclamations or statutes. I have next discussed such sports and pastimes as have become obsolete by reason of the violence inseparable from the practice of them as it prevailed in olden days, which was and is clearly inconsistent with our present views of what is in accordance with the advance in our state of civilization. Under the latter category I have classed tournaments, jousts, and various dangerous games played with dangerous weapons; weapons, in fact, which, if used as they were used formerly, would be likely to inflict serious wounds, and such as might cause grievous injury and even death to one or other of the combatants.

Next in order I have touched upon sports and pastimes which, from their intrinsic cruelty, have or ought to have become obsolete. With respect, however, to the latter subject, I must repeat that, although I consider it clear that in these days men have really become more humane as a natural result of the advance of civilization, yet

the spirit of cruelty strongly developed in the boy, and matured in the grown man, has not yet died out; and although savage games, such as cock-fighting, bear, bull and badger-baiting, *cum multis aliis*, are now looked upon as low and blackguard pastimes, the law has had much to do with the suppression of such amusements. From time to time, as stated in my foregoing chapters, proclamations have been issued and statutes passed for the suppression of cruel sports, yet the reasons assigned for making them the objects of Royal and Parliamentary interference have been, up to a comparatively recent period, that they were idle and useless, and that they caused nuisances, and not that they were inhumane. The feelings of the poor ill-treated beast were never alluded to. However, in process of time, a certain Mr. Martin, then commonly called "Dick Martin," M.P. for Connemara, arose, and he directed the attention of our legislators to the wrongs of the brute creation. Accordingly in the year 1822 an act was passed, 3 Geo. IV. c. 71, "To prevent the "cruel and improper treatment of Cattle." This act, no doubt, served its purpose for some time. The next statute was 5 & 6 Will. IV. c. 59, prohibiting the keeping of "any house, room, pit, ground or other place for the purpose of running, baiting or fighting any bull, bear, badger, dog or other animal, whether of domestic or wild nature or kind; or for cock-fighting, or in which any bull, bear, badger, dog or other such animal shall be baited, run or fought." The Metropolitan Police Act, 2 & 3 Vict. c. 47, s. 47, enacts pretty much to the same effect, but specifies lions besides the above-mentioned beasts; and by the

statute 12 & 13 Viet. c. 92, very properly intituled "An Act for the more Effectual Prevention of Cruelty to Animals," every possible precaution is taken for insuring the treatment with all reasonable humanity of brute beasts, whether wild or tame. Thank God, no such scenes as those recorded in my nineteenth chapter can ever again occur; and although it is obvious that we cannot all at once become perfect, I trust that on the whole, to quote (very freely translated by myself) the classic words of the old Latin "Grammar" (now, alas! superseded by the modern "Primer"), somehow or other something or other has "softened our manners, and not allowed us to be such beasts as we used to be."

And now to conclude. In compiling this "littel boke," I have, as a matter of course, had to refer to many works and papers, "ancient and modern," but I have endeavoured, to the best of my ability, to give the author, from whom I have borrowed, his due. Here and there I have slightly altered the phraseology of old manuscripts, and especially of translations; here and there, too, the inverted commas which indicate plagiarism may have been inadvertently omitted, but I have throughout done my best to be fair and honest towards those from whose brains I have derived the very pith and marrow of what I now submit to my readers. I should, however, be most ungrateful to the memories of two great men—Strutt and Hone—if I did not single them out as having afforded me, in a material degree, the means of affording pleasure to my readers, and without whose assistance I should have been, to use a slang term, "nowhere."

It will be evident that I have taken no "civet to sweeten my imagination," but the subject has by degrees grown upon me; and although I claim no more merit than that which may be reasonably accorded to the author of a desultory and sketchy literary performance, yet if my readers derive one-half of the pleasure from the perusal of this my new edition of "Games and Gaming" that I have had in re-writing, and I hope in improving it, I shall be amply satisfied.



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